

REPORT

FROM

THE SECRETARY OF WAR,

EXHIBITING,

In compliance with a resolution of the Senate, the present state of the difficulties which have existed, and the arrangements made, or attempted to be made, between the Government and the Cherokee people.

APRIL 1, 1840.

Read, and ordered to be printed.

WAR DEPARTMENT, *March 31, 1840.*

SIR: In reply to the resolution of the Senate of the 12th instant, I have the honor to transmit, herewith, a report from the Commissioner of Indian Affairs, and the documents accompanying it, which exhibit "the present state of the difficulties which have existed, and the arrangements made, or attempted to be made, between the Government and the Cherokee people;" and contain the correspondence which has passed between this department and its agents, and those Indians and their chiefs, and all the information which has been received on the subject since the date of the last annual report of the operations of the War Department.

I have the honor to be, very respectfully, your obedient servant,
J. R. POINSETT.

Hon. R. M. JOHNSON,
President of the Senate of the United States.

WAR DEPARTMENT,
Office Indian Affairs, March 30, 1840.

SIR: In compliance with a resolution of the Senate of the 12th instant, "that the Secretary of War inform the Senate what is the present state of the difficulties which have existed, and the arrangements made, or attempted to be made, between the Government and the Cherokee people; and that he communicate to the Senate the papers, documents, and written communications, which have passed between the War Department and its agents, and the said Cherokees and their chiefs, together with such additional information as he may have received since his last report on the subject," which was referred to this office by you, I have the honor to report:

Blair & Rives, printers.

That a history of the difficulties which have unfortunately, for the last nine months, distracted the Cherokee people, was laid before Congress early in its session, so far as information had been received when the annual reports were prepared. Every effort at composing them has been ineffectual. Persuasion and reason, and the advancement of their interests, have been addressed to the two parties in vain. The horrid transactions which marked their abrupt separation seem to have given the bitterness of feeling which preceded, and caused those violent acts to all their proceedings since. Each side is tenacious of its ground. The stronger feels power, and seems determined to use it; the weaker asserts rights which it is unwilling to yield, and complains of the deep wrong it has suffered, is suffering, and will continue to suffer, unless the arm of the Government be beneficently interposed to protect it, and quiet the deep-rooted feud which afflicts the Cherokees. Of the necessity for this interposition you were convinced, and hence your order of 7th March instant to General Arbuckle to take measures for bringing about the formation of a new constitution, that will insure entire security in person and property and rights to each individual; the abolition of all such cruel and savage edicts as that under which the unfortunate Ridges and Boudinot were so inhumanly and brutally murdered; conformity to the constitution and laws of the United States; and the election of officers from each party, in reference to their numbers, excluding John Ross and William Shorey Cocdey. The firmness and tenacity of purpose maintained by each party, unequal as they are, made it, in your judgment, a high duty to prevent intestine commotion and "domestic strife" among them; and this duty, enjoined by the treaty, became the more imperative from that very inequality, which, without the interference authorized, would, so far as inferences for the future may be drawn from the past, have subjected the minority to be trampled under foot, to deprivation of their rights, and to assassination, without a law to protect them or punish the aggressors, who, on the contrary, would have been shielded and cherished, as such men have been, when they should have been executed.

The correspondence between the department and its officers and agents, and between the latter and the respective Cherokee parties, will be found in detail in my annual report of 25th November last, reaching to the 9th of the same month. The subsequent communications, which I will now proceed to notice, refer to the arrest which you directed to be made of the murderers of the individuals slain, and to the causes of the disquietude by which the Cherokees have been harassed.

A letter, dated at Fort Gibson on the 2d November, but not received at the department until the 21st December, (1,) was addressed by General Arbuckle to John Ross, stating that it had been reported to him that threats were put forth by the Cherokees against any Indian who might aid the United States troops in their search for the individuals implicated in the late murders, and that such persons as he might find it necessary to employ would be under the protection of the United States, which would regard as an offence to them any violence done to those persons while so engaged. To this letter Mr. Ross replied, under date of November 4th, (2,) with considerable warmth, denying the correctness of the report referred to, and the right to arrest the accused, insisting upon his view of the treaty of 1835, and professing a disposition to live in peace and harmony with the United States. The names of several individuals, charged with having participated, with others unknown, in the putting to death of Boudinot and the

Ridges, had been communicated to General Arbuckle, and transmitted by him to the War Department, which will be found in the accompanying paper. (3.) On the 5th November, a decree (4) was adopted at a "national council in general council convened" of the old settlers, denouncing the proceedings of Mr. Ross and his party, which are declared null and void; protesting against the transaction of any business by the Ross delegation, now in this city, with the Government, for or on behalf of the Cherokee nation; declaring that no act of theirs shall be binding, and that no money "belonging to the Cherokee nation, in the shape of national funds, shall or can be drawn from the United States Government, or its officers, without authority given and empowered by the national council, and the same sanctioned by the chiefs." A communication was addressed to General Arbuckle by the chiefs of the same party, on 7th November, proposing a plan for the adjustment of their difficulties, to the execution of which they invoke his aid and that of the agent; and expressing the belief that they ought to participate in the pecuniary benefits from which they are excluded, particularly as the new emigrants have come into their country, and are endeavoring to wrest the government and laws out of their hands. To which it was replied, that harmony was very desirable, and would have been the consequence if the new-comers had quietly come in under the old government; and that, upon consultation with the agent, their joint views should be given on the propositions submitted. (5.) Governor Stokes, Cherokee agent, announced, by publication of 11th November, his intention of recognising "the old Cherokee chiefs and their government," until otherwise instructed. (6.) It has been heretofore stated that John Ross had distributed wampum, tobacco, &c., among certain Indian tribes. A letter from the Neosho sub agent, under whose charge are the Senecas, Senecas and Shawnees, and Quapaws, under date of 15th October, was received by General Arbuckle, in which he declared that it was true John Ross "had his emissaries with wampum, tobacco, &c., amongst my people;" and that "they had written communications addressed not only to the chiefs of these three little tribes, but to tribes north of us." (7.) Propositions were subsequently drawn up by the chiefs opposed to the Ross interest for the settlement of the existing differences, with the sanction of the General, and Governor Stokes, which appear to have been intended for submission to the Cherokee people; but I do not discover that any effect was produced by them. (8.) A communication from General Arbuckle, of 24th November, gives his views of the prospect of a restoration of tranquillity, and the obstacles which appear to be in the way of so desirable a result, and refers to some interesting facts. (9.) An application was, late in November, addressed by the chiefs Rogers, Smith, and Dutch, through the agent and superintendent, to the department, which was received on the 28th of December, requesting that a delegation of five might be permitted to visit Washington to represent their grievances, and meet the Ross delegation at the seat of Government. They were informed, under date of 2d January, that this was thought to be unnecessary; that the Cherokee difficulties were understood, and that the Government would do what was right and proper under the circumstances. (10.) Early in December, Joseph Vann, the second chief of the Ross party, was informed of your communication of the 12th October, and an early reply requested; and that one of the opposing party was attacked in his bed, and badly wounded in the hand by a hatchet; and that several of the treaty party had left their homes for safety. He expressed, in answer, his willingness and

desire to preserve peace and give security to the Cherokee people, and called a council, to reply to your despatch beforementioned, for the 16th of December. This correspondence was communicated by General Arbuckle on the 11th of the same month, together with the facts that John Smith, a chief of the treaty party and signer of that instrument, had, with some of his friends, sought safety by a removal to the south of the Arkansas river, and that John Brown, the former principal chief of the old settlers, had gone, as General Arbuckle was informed, to Mexico, in search of a new country for himself and his friends. The opinion that the interest of the Cherokees and the United States requires that Mr. Ross's authority should cease, is expressed; and the hope that the Indians will themselves see things in the same light. It is believed a large portion of the old settlers will abandon the country "rather than be subject to the control of John Ross." Reference is made to certain prominent Cherokees by name, as concerned in the murders heretofore mentioned, and details given which implicate strongly men whose conduct, apart from any positive agency they may have had in these bloody deeds, could not but be of most fatal influence. (11.) Letters were addressed to Joseph Vann, assistant chief of the late emigrants, and John Rogers, principal chief of the old settlers, on the 14th and 15th of December, by General Arbuckle, reiterating his views, and proposing a plan for the restoration of harmony, by the withdrawal of Mr. Ross, and the division of office among both parties according to their relative number. (12.) The attention of Mr. Vann was again called to the necessity of a reply to your communications of the 12th of October and 9th of November, which the council called on the 16th of December separated without noticing; to which he replied that the above propositions for arranging the Cherokee difficulties induced the council to appoint a committee to confer with Governor Stokes as to the time and place of assembling the Cherokee people for that purpose; which was fixed for the 15th of January, and notice given. This meeting the old settlers declined attending, the object of which they alleged to be to ascertain which party had the greatest number, and not to effect a union of both on terms of justice to all. It is the opinion of General Arbuckle, that, unless pacific overtures were made and acted on at the 15th of January assemblage, nothing short of the direct interposition of the United States can avert a resort to violence by the Cherokees. (13.) The delegation, consisting of John Ross and others, appointed in October last, announced their arrival in Washington, and wish to pay their personal respects to yourself and the President of the United States, in a note of 31st December. A communication was addressed to the other members of the delegation by you, saying that the Government would hold no intercourse with John Ross "until a full investigation has been had of all the circumstances attending the foul and cruel murders perpetrated in the Cherokee country upon the innocent and unoffending chiefs, the Ridges and Boudinot;" but that you would receive the other members of the delegation, who declined to wait upon you, and requested "the names of Mr. Ross's accusers, and the evidence against him. On the same day John Ross himself addressed you, making a similar request. To the latter no answer was returned; but the other members were informed that "the evidence which has brought the department to regard John Ross as the instigator and the abettor of those foul deeds of blood, as he is confessedly the defender of the murderers, shall be produced in the progress of the investigation, which has been instituted. In the mean time, it is the unalterable de-

termination of the department to hold no communication with him. From the remaining portion of the delegation the undersigned is ready to receive any communication relating to the business which has brought them to Washington, but will hold no further correspondence with them in relation to John Ross." (14.) In a personal interview subsequently (January 29) had with you by Mr. Lewis Ross and two other Cherokees, an appeal was made in favor of his brother, the murders spoken of as private acts, and the decree of pardon extended to the murderers referred to as putting an end to the matter. He further desired to know if an investigation could not be had, at which his brother might have an opportunity of defending himself, and showing that the ex parte statements on which the charge was founded were untrue. In reply, he was informed by you, that if John Ross were innocent, he would not oppose the arrest, check the arm of justice, and protect the murderers of the Ridges and Boudinot; that, with his known influence over the nation, he might have prevented the commission of these savage deeds, and could now contribute to the ends of justice by surrendering the criminals, whose acts were made national by the countenance which had been given to them by the amnesty; but that the council could not, and had no legal power to, sanction a violation of all laws human and divine; that an investigation was unnecessary, so long as Mr. John Ross refused to have the murderers delivered up to justice; that he was not charged by the department with having ordered the murderers to go on their bloody errand, but with permitting it to be done, when a word from him would have saved the shedding of innocent blood, and with being the avowed protector of the murderers after the deeds were committed; that he might justify himself by withdrawing that protection and giving them up, and, until he did so, that you would continue to regard him as the instigator and abettor of those foul deeds; that you had been of opinion, and so expressed yourself, that the majority ought to govern, but that majority had, by their cruel, savage, and lawless course, forfeited all their rights to govern the old settlers, who were the minority; that they had proved themselves tyrants, in the worst sense of the word; and that the Government of the United States would not uphold or sanction tyranny. They were further informed that you were ready to hear what the delegation had to say, and to attend to their business, and, with the exception of John Ross, would consider them as the representatives of their portion of their nation. They seemed surprised at their not being considered as delegates from the whole nation, and inquired if you were aware of the small number of the treaty party: to which you replied, that that consideration was not of the slightest weight; and that if there were but three men of the party, who stood aloof from them, and protested against their acts of cruelty and blood, you would not surrender their rights to a majority that had thus acted. They were repeatedly told, in the course of the interview, that, with your present impressions, the Government would not acknowledge John Ross as the chief of the Cherokee nation, or treat with him at all, as such. By your direction, copies of this correspondence with the Ross delegation, and the substance of what passed at the personal interview beforementioned, were sent, on the 29th January, to Captain William Armstrong, with instructions to submit them to the Cherokee people of both parties. (15.) A communication under date of 8th January, from John A. Bell and Stand Watie, to this office, enclosed an extract of a letter from George W. Adair, stating that the October council of the old settlers had elected John Rogers 1st chief, John Smith 2d chief, and Dutch 3d chief;

had organized their government by filling vacancies in other offices, decreed that a fine of \$500 should be imposed "upon any one who shall attempt to enforce the laws of the Ross faction," provided for "light-horse" to "enforce *our* laws," and authorized the chiefs to appoint and send on a delegation to Washington, (16,) which is now in this city, consisting of Dutch, William Rogers, George W. Adair, James Carey, sen., Alexander Foreman, Moses Smith, John Hass, and William Holt. It was suggested by William Rogers, John A. Bell, and Stand Watie, on the 22d January, that the feelings of the respective parties would probably prevent their living comfortably as one community, and that a division of their country and joint pecuniary interests would be advisable, and conducive to the well-being of all concerned. This suggestion was communicated to General Arbuckle and Captain William Armstrong, with a request that they would "devise and submit a plan by which the object they desire may be accomplished, with the consent of the parties interested." (17.) In anticipation of the council called for the 15th January, a letter was addressed by General Arbuckle to Joseph Vann, assistant principal chief, &c., stating that he would have attended the council, but that the old settlers having refused to be present, and he (Vann) having failed to make a proposition calculated to settle their protracted difficulties, he would (in continuance of his efforts to preserve peace) send Captain Page to certify to any matter "you may regard material to your pretensions to the government of the Cherokee nation;" that, although the President recognised the right of the majority to rule, he supposed that right would be so exercised as not to authorize murders or excite intestine commotions; that "John Smith, one of the signers of the treaty of 1835, and a chief of the old settlers, and Star, with several of the relations of the signers of that treaty, with some of the old settlers, have been compelled to leave their homes of late, in consequence of attempts made to kill some of them, and threats (as it is said) by the late emigrants; and you cannot be uninformed that acts of violence take place very frequently of late in your nation, and that these outrages principally result from party feeling. How is this wretched state of things to be prevented, except by a friendly union of the parties, on terms of justice, by which each party would be represented in a new government, by individuals of *their own choice*, agreeably to their number." He then advises that if three chiefs are determined on for the nation, two should be taken from the late emigrants, and one from the old settlers, as about the proportion they bear to each other, which, he says, Mr. Vann will concur with him, would restore peace and quiet; all authority, however, to speak for the old settlers is disclaimed. Another proposition from the latter party is enclosed, which, in his opinion, is well calculated to produce harmony, if accepted; and, in that event, he engages to supply "provisions for the committees, and every accommodation in my power to enable them to transact their business with comfort," and without interference. The propositions above referred to have not been transmitted to the department, but the council of the 15th of January revoked and repealed the decree of outlawry passed in July last, and took a vote on the subject of the act of union and the constitution adopted in said month, as the decree asserts, by both parties, by which they were ratified and confirmed. This ratification is said by the officers who signed it to have been sanctioned by between 1,800 and 1,900 votes, and is made to wear the aspect of an act of the Western as well as the Eastern Cherokees. It can hardly be so regarded. 'The old settlers' party has been generally com-

puted at about 6,000 ; and, as a party, has been augmented by the accession of the treaty interest; making the aggregate, from the computation that has been usually made, about one-third of the whole nation. Captain Page reported the whole number of voters at from 1,700 to 1,850, and states that Mr. Holt, one of the treaty party, who " was in attendance by request of his people, took down the names of the old settlers that attended the council ; he reported to me thirty-five were present, and, out of the thirty five, thirty-three voted with the Ross party. The chiefs of the Ross party have shown a list consisting of one hundred and fifteen persons, that they call the old settlers. How far this statement is correct, I am unable to say ; it differs much from that of Mr. Holt, who was selected by the treaty party to attend the council." This list is on file. Taking it as right, and without adverting to the statement of Mr. Holt, who was probably personally acquainted with the members who were really old settlers, and therefore most likely to be correct, do 115 persons (all above 18 years of age being, I believe, entitled to vote) constitute a representation of one-third of the nation ; or what proportion do they make to the 1,800 voters ? On the 17th of January communications were addressed by Vann and others to General Arbuckle and Governor Stokes, stating what had been done at the council, denying that the laws authorize *murder* and *intestine commotions* ; that their object is " to maintain harmony and the culture of friendly intercourse among all people ;" that the council could not alter or change the government, and could not appoint a committee to meet at Fort Gibson with such powers, according to the proposition of the other party, in whom they deny the existence of any lawful authority. A letter from General Arbuckle of 22d January refers to the foregoing acts and correspondence, and gives his views. He thinks that perhaps 150 of the old settlers are in favor of the new government ; and although he is of opinion that a minority of the voters of the nation passed upon it at the late assemblage, he has no doubt a majority of the people are in its favor ; and will, therefore, notify the old settlers that their government has ceased. This he regards as severe upon them, considering they are not represented by one officer of their choice in the new government, and, unless something is done to satisfy them soon, " frequent violence and murders may be anticipated in the Cherokee nation." The confirmation of the act he thinks " is certainly not entitled to credit, as there were a very small number of the old settlers then present, and they acted without authority." A communication from Governor Stokes, of same date, considers the difficulties as settled ; he is of opinion the murders were not " authorized by law or by an order of the chiefs," and says he has been furnished with a copy of the constitution, and laws passed under it, of which he will forward copies ; but they have not yet been received. Captain Armstrong addressed this office to the same purport on the 29th of January, and anticipates the restoration of harmony. (18.)

The dissensions of the Cherokees had reached, in your opinion, the utmost limit of safety, not only to themselves, but to the population of the United States in their neighborhood. Every effort had been essayed in vain to reconcile their differences. There was a resolute determination on either side not to yield, which must produce, if allowed to work its natural and necessary result, bloodshed among themselves, and distress and danger to our citizens. Against the first, the United States are bound by the sixth article of the treaty of 1835 to protect them, as well as to prevent the inevitable consequence, " intestine wars between the several tribes," who

would certainly be embroiled in a civil war among the Cherokees ; against the latter, the Government were called upon to guard, by the protection due to each of our own citizens. Once commenced, the commotion might be most serious, as well in its more immediate and direct and worst effects, as in the heavy expenditure which its suppression would require. The division of the tribe is into parties, unequal, to be sure, but yet not of such disparity as to make the weaker strike, because of the strength of the antagonist interest. A contest might be hopeless, looking to its final issue ; but a spirit of manhood in some, of patriotism in others, and of less commendable principles and motives in their associates, may impel men to resist till they die. Among the better principled, this determination will always be the firmest, especially if the conflict be with oppressors, who allow their fellows to be murdered in cold blood, who disfranchise themselves, and who, like foreigners landed on the shores of a conquered country, take into their own hands the exclusive government of their common country. This design to oppose the constitution and laws of the Ross party was as firmly fixed as the intention of that party to persevere in its course. It seems to be a weak assumption which lays claim to validity in the act of union. There was but one party really present. Whatever pains may have been taken to enlist or to intimidate the old settlers into a junction with the dominant party, those who yielded to the inducements held out were few, and, with one or two exceptions, of little weight, and do not afford a decent color for the assertion that the tribe is united, or that any portion or number of them deserving to be characterized as their representatives, or whose acts could, in any proper sense, bind the old settlers or treaty party, assented to the proceedings of the convention of July, assembled under the auspices of their opponents, or to any other political or legislative act of the Ross party. There are, unfortunately, two distinct parties, plainly marked, bitter and uncompromising in their sentiments and feelings towards each other. The history of the last nine months proves it beyond all controversy. Proposition after proposition for an adjustment of their difficulties has been made since the act of union, (July 12, 1839,) as it is called, was adopted ; the few old settlers at the convention ground, where Mr. Ross's convention was assembled, thought it important, on the 23d August, by a decree, to say that they deposed " John Brown and John Rogers from the office of chiefs of the Western Cherokee nation." Rival governments are in actual operation. Councils of each have more than once assembled ; and there are now in Washington delegations empowered by those councils, respectively. Without entering into further details, the assertion that the Cherokees are united into one body politic appears clearly to be unwarranted. Seeing not the least ground of rational hope that they would harmonize, but the hazard of a collision increasing with every hour, you thought the unfortunate contingency contemplated by the treaty had occurred ; that the hazard of domestic strife was imminent ; that intestine Indian wars and danger to our own citizens were to be justly apprehended ; and that the duty of preventing either devolved upon the Government of the United States. I was therefore advised that you had determined to confide the settlement of the Cherokee difficulties to military authority, and instructed to suspend the exercise of the functions of Governor Stokes, the Cherokee agent, until further orders ; which was done the next day, when your orders were issued to General Arbuckle, instructing him what results it was desired to bring about, viz : " the adoption of a constitution that will secure to every

individual Cherokee his personal and political rights, and the free enjoyment of life, liberty, and property; annulling now and forever all such barbarous laws as those under which Boudinot and the Ridges were put to death, and the penalty of outlawry inflicted upon innocent men. You must be aware that all such laws are inconsistent with the constitution of the United States, to which, by the treaty, they are bound to conform." As the Government had not seen the constitution said to have been framed by the convention, and was ignorant "whether its provisions are conformable to the constitution and laws of the United States," he was directed "to warn the council of the necessity of framing their constitution and laws in such manner and terms as that they will not be inconsistent either with the constitution of the United States, or with such acts as have been passed by Congress to regulate the trade and intercourse with the Indians." Your orders further informed him that, "as it appears impossible for the Government of the United States to perform the duty assigned to it by the section of the treaty above alluded to, in any other manner, you are instructed to insist that the old settlers shall be represented in the government to be created under the provisions of the constitution to that effect; and that one-third of the chiefs shall be chosen from the Western, and two-thirds from the Eastern Cherokees. Strong, and, in the opinion of the department, well-grounded suspicion points to John Ross as the instigator and abettor of the foul murders committed upon the bodies of the two Ridges and Boudinot; and it appearing, from undoubted testimony, that he took no steps to arrest the murderers, but used, on the contrary, every effort to shield them from the punishment due to their crimes, the conclusion is irresistible, that he is *particeps criminis*. He must be regarded as conniving at those acts, or, viewing his conduct in the most favorable light, as unable to protect the Indians under his charge, and unwilling to punish the assassins. Under these circumstances, he is excluded from all participation in the government, as is likewise William Shorey Coodey, who, in conversation with me in my office, persisted in considering the murders committed by the Cherokees upon the persons of Boudinot and the Ridges as justifiable. Men who entertain such opinions are unfit to be intrusted with power, and would soon again involve the nation in domestic strife, from which we are now called upon, by our solemn compact with the Cherokees, to protect them." The remainder of your despatch relates to provisioning a portion of the tribe for a period not exceeding five months, at their own expense, for which they had previously, and have since, applied. (19.) A letter of the 28th January, from General Arbuckle, addressed to yourself, was received on the 29th February, stating the fact of his having communicated to the chiefs of the old settlers his opinion "that, agreeably to the decision of the President," their government "had ceased." They asked permission to meet at Fort Gibson on the 2d or 3d of February, with their principal men, for consultation; which was granted. They expressed great dissatisfaction; declared their intention to claim of the United States undisturbed possession of the 7,000,000 acres, and the removal therefrom of the late emigrants who have not voluntarily removed to the west, and united with them; "or that they shall be permitted to enjoy a fair participation in the government of the Cherokee nation, and receive an equal share of the sum to be paid for the sale of the Cherokee country east, as provided for by the 15th article of the treaty of 1835." The General adds, "if I were permitted to exercise my own judgment, I

would at once dissolve the two governments in that nation ; and as they cannot themselves settle this matter, without great risk of serious misfortune to their people, I would give to each party a fair representation in the new government, agreeably to their number. This, as I believe, would soon give quiet to the people." (20.)

A communication from the same officer, of the 8th of February, to yourself, received on the 14th instant, states that the old settlers will contend for a participation in the government of their nation, which they regard as the material point; to yield or secure that to them, would probably settle all further difficulty. He is "satisfied that the old settlers will not peaceably surrender what they regard their rights; and that, if the Cherokees should be so unfortunate as to resort to further violence against each other, other tribes will have more or less concern with these difficulties." This letter enclosed proceedings of the convention, which, as has been already mentioned, it was proposed to hold at Fort Gibson early in February: they consist of a preamble and resolutions setting forth the views of the old settlers "of the right of John Ross and his partisans to the government of the Cherokee nation west, without the consent of the original settlers." The preamble refers to the several treaties that have been made in and since 1817, and asserts that "every attribute that constitutes a sovereign and independent community has been acknowledged in us, time after time; and if we *are* an independent community, there are but two ways that Mr. Ross and his partisans can legally obtain our government: these are, by *conquest*, or by our *consent*. We deny most positively ever yielding our government to them in either of these ways." The resolutions are: 1st. "That the conduct of Mr. John Ross and his partisans is an unprecedented act of usurpation, unfounded in justice, law, or humanity; and we will not, in all future time, acknowledge the same." 2d. "That the only legitimate government of this nation is the one handed down to us by the original settlers of the Cherokee nation west, and we will, to the utmost of our power and ability, uphold and defend the same." In these resolves and the reasoning of the preamble it is not asserted, but I think it is plainly to be gathered from both, that the old settlers imagined that they had an exclusive right to the land, especially as they told General Arbuckle, in January, that they would insist upon its exclusive possession for themselves and the voluntary emigrants who had joined them, or that they should enjoy a fair participation in the government of the nation, and receive an equal share of the pecuniary benefits secured by the treaty of 1835. These several communications put forth claims which cannot be recognised; and as the old settlers' delegation is in Washington, I thought it proper they should not be either mistaken as to the views of the department, or remain in suspense in regard to what would be the decision on their rights. They are not sovereign and independent, in the full meaning of the term; nor are they so in reference to, and separate from, the Eastern Cherokees: nor have they ever been, except contingently. The early emigrants, or old settlers, had, as all Indian tribes have, a qualified independence; as they increased and grew by new removals, they continued independent—not the original nucleus, but the aggregated mass: and so with every accession which it was expected would, and did, incorporate itself with those it found west, until this last numerous emigration, which did not quietly join the old settlers, but aims at a political revolution of the tribe, claiming to have formed and to be in the administration of a govern-

ment to which all Cherokees must submit. The old party will not consent to this; and hence all the struggles and misfortunes of both. They are to be deeply lamented. These people are, beyond any doubt, one community, however distinctly marked are the parties into which that community is divided, and however difficult it may be again to unite them in harmonious feeling or action. It is equally clear that they are not entitled to the exclusive possession or ownership of the 7,000,000 acres of land; it was intended to be for the use of the whole Cherokee people, when all should emigrate, and was so set apart by the consent of the Western Cherokees themselves. In regard to the pecuniary interest of the old settlers, they are entitled to participate in whatever benefits may result to the tribe or its members from the use of the general fund of the nation, now amounting to \$514,000, and to the advantages of the school and orphans' funds, as they shall be administered by the national council, to which these several funds are confided by the treaty of 1835. The limitations of the treaty must govern; and, therefore, unless Cherokees are upon the census which was made in 1835, or have emigrated since June, 1833, and, by the terms of their enrolment and removal, are entitled to all the benefits of the final treaty, I do not perceive how they can have any future pecuniary interest in the Cherokee fund, except so far as it may be invested for general, orphans', and school purposes. These opinions, for the reasons before given, I submitted to you on the 27th instant, with a recommendation that, if you concurred, they should be sent to Dutch and others, of the old settlers' delegation, for their information. (21.) You approved of the communication, and directed it to be transmitted as suggested.

But one other despatch embraced in the call, or relating to the troubles of the Cherokees, has been received; it is dated on the 10th ultimo, at Fort Gibson, and was received on the 18th instant; in which General Arbuckle informs you of the appointment of the old settlers' delegation, now here, "to proceed to Washington (at their own expense) with the object of making known their situation to the Government, and claiming its action in their favor to sustain them against (what they regard) the unjust acts of John Ross and his partisans;" that he does not now suppose the right of Mr. Ross and his adherents to settle on the 7,000,000 acres of land will be questioned; that "the Cherokee people will probably remain quiet until they hear what has been done at Washington in relation to the contest for authority in their nation; and possibly it may be in the power of the Government to so settle the dispute between the parties as to prevent further difficulties; yet it is feared that no permanent or secure arrangement of this kind can be made, provided John Ross returns to this country." (22.)

I have thus endeavored to give a condensed view of all the correspondence and proceedings, since the last annual report, on the interesting subject to which they relate, with such remarks as seemed to be necessary in explanation of the reasons by which the department was governed. Copies of the several papers adverted to accompany this report, (numbered from 1 to 22, inclusive,) with a list, correspondently marked, which will make a reference to them easy.

I have the honor to be, very respectfully, your obedient servant,

T. HARTLEY CRAWFORD.

Hon. J. R. POINSETT,

Secretary of War.

List of accompanying documents.

No. 1. Letter from General Arbuckle to John Ross, relative to reported threats by Cherokees against any Indian who might aid in the search for the murderers of the Ridges and Boudinot.

No. 2. Letter from John Ross to General Arbuckle, in reply, denying the correctness of the report, and the right to arrest the accused. &c.

No. 3. Statement by General Arbuckle of the names of Cherokees charged with the commission of the murders.

No. 4. Decree of the national council of the old settlers, denouncing the proceedings of John Ross and his party, and protesting against the transaction of any business by the United States Government with him and "his delegation."

No. 5. Correspondence between General Arbuckle and the chiefs of the old settlers, in relation to propositions of the latter for the adjustment of difficulties.

No. 6. Notice of Governor Stokes, Cherokee agent, to the Cherokees, that he should continue to recognise "the old Cherokee chiefs and their government as the only government of the Cherokee nation."

No. 7. Letter from R. A. Callaway, Neosho sub-agent, to General Arbuckle, reporting that John Ross had sent emissaries with presents to the Senecas, Senecas and Shawnees, and Quapaws, and to other tribes north of them.

No. 8. Propositions of the chiefs of the old settlers to the Ross party.

No. 9. Letter from General Arbuckle to the Adjutant General, relating to the conduct of Ross, the validity of the act of union, the murders of the Ridges and Boudinot, &c.

No. 10. Correspondence between the chiefs of the old settlers and the department, in relation to their sending a delegation to Washington.

No. 11. Correspondence between General Arbuckle and Joseph Vann, 2d chief of the Ross party, upon the letter of the department to General Arbuckle of the 12th of October, and other subjects.

No. 12. Correspondence between General Arbuckle and Joseph Vann, and between the same and John Rogers, principal chief of the old settlers, proposing a plan for the accommodation of differences, &c.

No. 13. Further correspondence between General Arbuckle and Joseph Vann, upon the letters of the department of the 12th of October and 9th of November, &c.

No. 14. Correspondence between the department and the delegation consisting of John Ross and others.

No. 15. Letter from the department to Captain William Armstrong, acting Superintendent of the Western Territory, communicating to him, for the information of the Cherokee people, copies of this correspondence, and the substance of what passed at an interview between the Secretary of War and Lewis Ross and two other Cherokees.

No. 16. Letter from John A. Bell and Stand Watie, Cherokees of the treaty party, to the department, communicating the proceedings of the old settlers at their October council.

No. 17. Proposition of William Rogers and others, Cherokees of the treaty party, for a division of territory and pecuniary interests; and instructions of the department to General Arbuckle and Captain Armstrong on the subject.

No. 18. Correspondence between General Arbuckle, and Joseph Vann and others of the Ross party, in relation to the difficulties ; statement of the proceedings at the council of the 15th of January, at which the decree of outlawry was repealed, the act of union ratified, and constitution adopted by the Western and Eastern Cherokees, as is alleged.

No. 19. Instructions of the department to General Arbuckle, Captain Armstrong, and Governor Stokes, committing the settlement of difficulties wholly to the former, and directing the course to be pursued for that purpose.

No. 20. Letter from General Arbuckle to the Secretary of War, reporting that, in view of the results of the council of the 15th of January, he had informed the old settlers that, in his opinion, their government had ceased ; and stating the substance of their reply.

No. 21. Letter from General Arbuckle to the Secretary of War, communicating a statement of the proceedings of the convention of old settlers held on the 7th of February. And the opinion of the department upon the pretensions set up in the preamble and resolutions passed at this convention, which has been communicated to the delegation of the old settlers.

No. 22. Letter from General Arbuckle to the Secretary of War, informing him of the appointment of a delegation by the old settlers to visit Washington, &c.

No. 1.

HEADQUARTERS, 2D DEPT. W. DIVISION,
Fort Gibson, November 2, 1839.

SIR : It having been reported to me that threats have been made by the Cherokees against any Cherokee who should aid the troops in searching for the individuals implicated in the late murders, I thought it advisable to inform you that Hercules S. Martin, your agent's interpreter, will accompany the troops as an interpreter, and in no other capacity ; and should it be necessary to employ a Cherokee or Cherokees to point out those individuals, (they not being personally known to the officers,) although it is not my intention to do so if other persons can be obtained, you must be aware that such persons, if employed in the service of the United States Government, will be under its protection. Therefore, any violence offered to them in consequence of this employment, would be an aggression against the United States.

I am, sir, respectfully, your obedient servant,

M. ARBUCKLE,
Brevet Brig. General U. S. A.

JOHN ROSS,
Principal Chief of the late Emigrant Cherokees.

True copy :

S. G. SIMMONS, A. D. C.
and A. A. Adj. Gen., 2d Dept. W. Division.

No. 2.

PARK HILL, CHEROKEE NATION,
November 4, 1839.

SIR: Your letter of the 2d inst. was handed me yesterday, by which I am informed that it has been "reported" to you "that threats have been made by the Cherokees against any Cherokee who should aid the troops in searching for the individuals implicated in the late murders," and that "any violence offered to them, in consequence of this employment, would be an aggression against the United States."

Some days since, I had the honor also to receive another communication from you, dated on the 14th October, and to which other business of importance has prevented an earlier notice. This communication also closes with a declaration "that, if the discharge of this duty [searching the country by military parties] should lead to serious difficulties, the blame will be with you and your people."

To me it is of small moment what "reports" are borne to you or any other person. I am not answerable for the slanderous fabrications of designing Cherokees or vicious white men.

The truth I fear not, and court its strictest scrutiny at all times, and under all circumstances. But I do regret the importance which has been repeatedly attached to mere rumor and the most improbable statements; and that *reports*, without proof, have been deemed sufficient to warrant serious charges against respectable individuals, to tax the community with corrupt falsehood, and the application of harsh and violent terms to the nation as well as its citizens. This, however, is a subject perhaps properly your own; but it becomes a grievance to us when you violently assign to the authorities and people of this country a position unfair, unnatural, and unjust in point of fact, and the universal prevailing sentiment.

In duty to the Cherokee people, I am again impelled to protest against any further interference on your part in their political affairs, and request that they may be permitted to remain in peace and quiet, undisturbed, and unannoyed by the military, in searching the country for persons whom they have no legal right to arrest, and for purposes at variance with the good understanding so long subsisting and cherished between your Government and the Cherokee nation. They are guilty of no offence against the Government or people of the United States, and, if arrested, it is yet purely a matter of conjecture by what mode or before what tribunal they are to be "*punished*." Why has not the department also given instructions on this point, when it is not less important than the arrest itself? Was it because the sanction of law was wanting? or was it committed to military discretion and martial law? The absence of all information on this subject, under the existing state of things, renders it exceedingly improbable that an individual would willingly commit his safety to confinement in a garrison, or to be marched off to some neighboring jail.

You speak of the obligations of the Government to "protect the Cherokees from domestic strife," but omit all notice of the preceding declaration in the same 6th article of the Schermerhorn treaty of 1835, that "a perpetual peace and friendship shall exist between the citizens of the United States and the Cherokee Indians." If, then, that instrument was actually made with the Cherokee nation, could it have been intended that this "peace and friendship" should be confined on the one part to a small number not com-

prising the one-hundredth portion of the "Cherokee Indians," or the half of that; and that this small portion should be so elevated and cherished through the military, as to hold and enjoy all the friendship, protection, favor, rights, and interests, natural and conventional, belonging or appertaining to their race?

These people have no desire, direct or remote, to be at enmity with your Government or people, and are ready, on proper occasions, to testify their sense of honor and their love of peace; but they do not consider it their duty, at this threatened exercise of military authority, to prostrate the nation, and surrender their rights, their interests, and the lives of their citizens. Nor do they believe that the Government at Washington, if properly informed, would demand such a sacrifice.

You, as an officer of the United States, are responsible for your official conduct and measures; and however much you seem to force me on this occasion to participate in sharing the responsibility of the execution of "orders" which I have never seen, if not wholly to assume it, I must be excused for waiving entirely all right or pretension to such honor. I know my duty to my own people, and our obligations to the United States; and while I shall not shrink from the performance of the one, I shall always regard the other with scrupulous attention. You charge me with a failure to comply with my duty in this respect; but that is merely your own opinion, and I claim the equal privilege of exercising my own judgment in reference to subjects calling for my action; and if, perchance, it should please you to overstep the proper bounds of official propriety, to indulge in invective or decide questions not at all within the scope of your duties, it will not change my course, or cause me to forget the respect due to an officer of the United States, whose business to some extent connects him with this nation.

Whatever result may emanate from your action in relation to these arrests, I again assure you that I cannot yield to share any portion of the "blame" or responsibility, and desire that you will cease to confer such unmerited distinction upon an individual who has no ambition to be thus signalized.

To the other portions of your letter of the 14th of October, I have no wish to reply at length; assuredly, I have none to engage in a spirit of controversy so apparently manifest and inviting in your language.

The Eastern and Western Cherokees have formed a union, with which the majority of both are satisfied; and it being a matter exclusively their own, it is not considered that your approval was required to legalize the transaction, or that your opposition will destroy it among the *Cherokees*.

The aid or friendly counsel of the Government officers in public matters may not at all times be objectionable, and the Cherokees have ever been grateful for acts of kindness rendered; but it cannot extend to an approval of political acts calculated to "disturb the quiet" of the mass of the people.

Your other remarks are predicated upon entirely erroneous information and wrong views, but of which I shall not now attempt any correction. Time will develop the truth of many things now clouded by false coloring and shadows.

I have the honor to be, sir, very respectfully, your obedient servant,
JOHN ROSS, *Principal Chief*.

Brevet Brig. Gen. M. ARBUCKLE, *United States Army*.

True copy:

S. G. SIMMONS, *A. D. C.*,
and A. A. Adj. Genl., *2d Dept. Western Division*.

No. 3.

Names of the Cherokees charged with the murder of the Ridges and Boudinot.

Those charged with the murder of John Ridge are,—Daniel Colston, Joseph Spear, James Spear, Archibald Spear, Hunter, (a full-blood Cherokee, half-brother to the Spears and Colston,) John Vann, and twenty or twenty-five others, whose names are not known. Colston and the Spears are charged with taking him out of his house and killing him.

James Foreman, two of the Springtons, Bird Doublehead, Jefferson Hair, and James Hair, are charged with the murder of Major Ridge.

Soft shell Turtle, Money Taker, (or Money Striker,) Johnston, Car-soo-taw-dy, Cherokee, (or Joseph Beanstick,) and Duck-wa, are charged with the murder of Boudinot.

M. ARBUCKLE,
Brevet Brig. General U. S.

FORT GIBSON, November 27, 1839.

No. 4.

Whereas, the national council has taken into consideration the great disturbance now existing in the nation, among the people, caused by Mr. Ross and his party, in attempting to depose the chiefs, putting down the national council, and in endeavoring to annul the original laws of the country: moreover, he has seduced some of our people to join in his proceedings, and putting down the laws of their own country:

Resolved, therefore, by the national council, in general council convened, That, inasmuch as Mr. John Ross, and party, in attempting to depose our chiefs, and to annul the existing laws of the country, without other authority than that usurped to himself, the same is hereby, and the whole of his proceedings, declared unlawful, unauthorized, and made by this null and void. Moreover, the delegation appointed by himself and party to visit the city of Washington, on behalf of the nation, is hereby declared null and void; and the national council does hereby protest against John Ross and his delegation doing any thing, while at the city of Washington, with the United States Government, on behalf of the Cherokee nation; and, likewise, such of the old settlers as have been attached to the said delegation, are declared to be unauthorized as such, and nothing they shall or may do at the city of Washington, with the United States Indian Department, on behalf of the nation, shall be binding on the nation.

And further resolved, That no moneys belonging to the Cherokee nation, in the shape of national funds, shall be, or can be, drawn from the United States Government, or its officers, without authority given and empowered by the national council, and the same sanctioned by the chiefs.

A. FOREMAN,
President of the National Council.
JOHN CANDY,
Clerk of the National Council.

ТАКАТТОКАН, November 5, 1839.

Approved November 6, 1839.

JOHN ROGERS, *Principal Chief.*

JOHN SMITH, *2d Chief.*

DUTCH, *3d Chief.*

THOMAS WILSON,

Secretary to the Chiefs.

True copy:

S. G. SIMMONS, *A. D. C.,*

and A. A. Adj. Gen., 2d Dept. W. Division.

No. 5.

TAKATTOKAH, CHEROKEE NATION,

November 7, 1839.

SIR: We, the undersigned, chiefs of the Cherokee nation, after taking the great and important subject of bringing about a union of the people of the Cherokee nation, and of giving satisfaction to the parties now in the nation, as near as it possibly can be done, and giving the subject due consideration, have come to the following conclusion, to wit: That we will consult with you and Governor Stokes, our agent, in forming a plan which may be the best calculated to unite, and insure peace and justice to, our people: say, there shall be an office, or offices, opened at the agency, or any other place or places in our nation, and books kept for enrolling the names of the late emigration, and acknowledge the laws and government of the old settlers; then, after all, or a sufficient number, may have signed or enrolled their names, their money might be paid them, &c. We believe, when the plan would be made known to them throughout the nation, they would come in crowds to those offices, as numbers now come, and inquire how they can become citizens, in order that they may get their money, and have the benefit of the law, &c.; and we believe, if there was a sufficient amount of money, which would make it equal with those of the late emigrants which may be coming to our nation by treaties or otherwise, set apart for distribution among the old settlers alone, it would be the means of satisfying the old settlers, and would appear to us to be nothing but justice: and the old settlers seem to think they are intruded upon by the late emigrants coming in the country, and trying to wrest the laws and government out of their hands, without any remuneration, which does seem to us unfair.

We, therefore, wish to consult with you upon the best possible plan to effect the said objects, and also solicit your assistance in executing the said plan.

With respect, we are your friends and brothers;

JOHN ROGERS, *Principal Chief.*

JOHN SMITH, *2d Chief.*

DUTCH, *3d Chief.*

THOMAS WILSON,

Secretary to the Chiefs.

True copy:

S. G. SIMMONS, *A. D. C.,*

and A. A. Adj. Gen., 2d Dept. W. Division.

M. ARBUCKLE,

Brevet Brig. Gen. U. S. army.

No. 5.

HEADQUARTERS, 2D DEPT. W. DIVISION,
Fort Gibson, November 10, 1839.

GENTLEMEN: Your letter of the 7th inst., and a copy of your decree of the 5th, was handed to me by Mr. Wilson; and I regret that your agent did not arrive here yesterday, agreeably to his promise; and as the weather is now very bad, I have no hope that he will be here to-day. I have no hesitation in assuring you that it is highly important to the interest and happiness of the Cherokee nation that a friendly and perfect union should take place between the old settlers and the late emigrants, on terms that will give to each party a just participation in the government; and I have no hesitation in saying that the government the late emigrants found here is the only lawful government now in the Cherokee nation; and should the late emigrants, individually or collectively, join said government, so far from there being any impropriety in their doing so, I conceive it is what they ought to have done on their first arrival, which, if they had done, every thing would be quiet, and Captain Armstrong would not hesitate in paying, when received, the moneys due to the Cherokee nation. So soon as I can have a conference with your agent, you shall have our views as to the best mode of bringing the late emigrants under the laws of the old settlers, that they may derive benefit therefrom, from which they are now debarred.

I am, gentlemen, with great respect, your obedient servant,

M. ARBUCKLE,

Brevet Brig. General U. S. A.

JOHN ROGERS, JOHN SMITH, and DUTCH,
Chiefs of the Cherokee Nation.

True copy:

S. G. SIMMONS, A. D. C.,

and A. A. Adj. Gen., 2d Dept., W. Division.

No. 6.

CHEROKEE AGENCY,
Bayou Menard, November 11, 1839.

To the people composing the Cherokee nation:

FRIENDS AND BROTHERS: You held a council at the Double Springs in June last, at which General M. Arbuckle, commanding 2d department western division of the army of the United States, and myself, attended as mediators; and, as I firmly believe, neither biassed in favor of one party or the other.

We did all in our power to bring about a union and reconciliation between the two parties—that is to say, between the old settlers, under the superintendency of *John Brown, John Rogers,* and *John Looney*, old chiefs then in the exercise of the Cherokee government, and *John Ross, George Lowrey,* and others claiming a participation in the Cherokee government. This union of the nation having failed, *John Ross* called his people (the new emigrants) into convention, at the camp-ground on the Illinois river, at which many of the old settlers attended, and some of them joined

in the proceedings of the convention, and in the decrees of the council appointed by said convention. Now the former chiefs of the old settlers did, on the 28th of June last, and again on the 2d of August, propose a meeting of fifteen representatives from each party, to meet at Fort Gibson, and form a government for the Cherokee nation. With these propositions *John Ross* and his friends refused to comply; and the said old chiefs and old settlers called a council at the Double Springs in October, 1839, and have elected three chiefs, viz: *John Ross, John Smith, and Dutch*, chiefs for the next term.

Now, know ye, the Cherokee people, that I, Montfort Stokes, agent for the Cherokee nation, having had no instructions from the Government of the United States to favor the claims or pretensions of either party, and having heretofore held myself, I still hold myself, as a neutral between the said parties, unless otherwise ordered by the Government of the United States.

In the mean time I do solemnly recommend to the Cherokee people to be at peace with one another, as they all profess to be with the people of the United States; and as, during my agency of upwards of two years past, I have acknowledged and respected the old Cherokee chiefs and their government as the only government of the Cherokee nation, I shall continue so to do, until otherwise instructed by the Government of the United States.

MONTFORT STOKES,

United States Agent for the Cherokee Nation.

True copy:

S. G. SIMMONS, A. D. C.,
and A. A. Adj. Gen., 2d Dept. W. Division.

No. 7.

NEOSHO SUB-AGENCY, October 15, 1839.

SIR: I have just returned from the Osage agency, whither I have been for two weeks past. On my return I found your communication of the 5th instant; and, in reply, I have to answer that the report of John Ross having had his emissaries, with wampum, tobacco, &c., amongst my people, is true as the writings of Moses. They had written communications, addressed not only to the chiefs of these three little tribes, but to tribes north of us.

This information was given me by, perhaps, the only honest Seneca here, (Daniel Adams,) some time, I think, in the latter part of August; and, in anticipation of this state of things, I immediately advised these people not to meet John Ross in council, or to have any thing whatever to do with him; to all of which they promised compliance, except the chiefs of Senecas. I believe Cornstick, the principal chief of Senecas, (who is now dead,) was down at Ross's council. I shall keep you advised of all such movements, as far as I may be able.

I am, sir, with much respect, your most obedient servant,

R. A. CALLAWAY,
Neosho Sub-agent.

Brigadier General M. ARBUCKLE,
Com'dg 2d dept. Western Div., Fort Gibson.

True copy:

S. G. SIMMONS, A. D. C.,
and A. A. Adj. Gen. 2d Dept. W. Division.

FORT GIBSON, November 16, 1839.

The chiefs of the Cherokee nation, and the national council, have frequently invited Mr. Ross and his people to form a union, and participate with the old settlers in the laws and government of the country ; but, unfortunately for the people, all such offers have been rejected.

By this refusal much confusion has been caused, and great distress brought upon the people in consequence of their not being able to draw their money from the United States.

The chiefs have been called upon by the people for relief, saying, that if these difficulties are not settled, and they are not enabled soon to draw their money from the United States Government, their families and themselves will be brought to sufferance and starvation.

The chiefs have therefore called upon the agent for his advice what should be done ; and he has transmitted to the chiefs a written proclamation to the people of the Cherokee nation, in which he recommends that peace should be established between us all.

The agent's views upon the subject are highly approved of by the chiefs, and his advice is very satisfactory ; they are therefore willing to coincide with the agent's recommendation, by adopting such measures as they hope will bring about peace and a union of the old and new settlers.

The chiefs are willing to renew their invitation, and open the way again for a union of the whole Cherokee people, to take place, if it can be done, by allowing justice equally to all.

The chiefs wish the Cherokee people to live in peace, to enjoy equal privileges, live under the same government, and hold the present country in common, for the benefit of the whole Cherokee people.

Now, in order that these wishes may be effected, the chiefs do hereby make it known to the people, and open the way again to receive their new friends and brothers, and invite them to join with us in the present government of the country, under the following propositions :

1st. They propose that the present country shall be in common, the property of the whole Cherokee people, and likewise all annuities due under treaty stipulations.

2d. That the whole Cherokee people shall live under the same government, and enjoy equal rights and privileges, and have an equal share in its regulations.

If our friends and brothers are willing to join us, and accept of these propositions, and signify their willingness by signing their names to this, then it will be considered that peace is restored, and a union established. After this is known, all objections to pay the money over to the people will be removed.

And, likewise, as soon thereafter as practicable, a council will be called for the purpose of passing additional laws, and creating such other districts as may be necessary to meet the convenience of the people, and arrangements made to allow the emigrants an equal participation in the present government.

To avoid any charge of unfairness in the signing of names to these propositions, the persons in charge of the papers in the several districts are

required to request at each place one of the new emigrants, or of Mr. Ross's party, to be present and witness the signatures as they are put down.

JOHN ROGERS,
JOHN SMITH,
DUTCH,

Chiefs of the Cherokee Nation.

THOS. WILSON,
Secretary to Chiefs.

FORT GIBSON, November 16, 1839.

We have examined the foregoing propositions, and approve the same, and recommend them to the favorable consideration of the Cherokee people.

M. STOKES,
Agent for the Cherokee Nation.

M. ARBUCKLE,
Brevet Brig. General U. S. A.

True copy :

S. G. SIMMONS, A. D. C.,
and A. A. Adj. General, 2d Dept. W. Division.

No. 9.

HEADQUARTERS, 2d DEPT. W. DIVISION,
Fort Gibson, November 24, 1839.

SIR : I have the honor to transmit herewith, for the information of the Government, a copy of a letter addressed to me by John Ross, on the 4th instant, which was received by mail on the 13th. That letter very fully exhibits the feelings of Mr. Ross towards the United States ; and, had he not been prepared to start to Washington on business of much interest, as it was understood, to the late emigrants, I would have caused him to have been arrested and placed in confinement until the pleasure of the Government was known.

I judge that it will be perceived, by the conduct of Mr. Ross since his arrival in this country, that the Cherokee nation cannot be restored to quiet, or the necessary security had for the continuance of peace on this frontier, as long as he is permitted to have the least authority in that nation. He has now attached to him (as I believe) a number of the most cunning speculators of the new emigrants, and some of the old settlers, who desire to profit by his assistance in passing their accounts or claims.

It will be noticed that Mr. Ross asserts that the Eastern and Western Cherokees have formed a union, with which a majority of both are satisfied, and that he continues to regard himself principal chief. Judging from the best information I have on this subject, I am of the opinion that there were about twelve hundred Cherokee men in this country before the arrival of Mr. Ross and the late emigrants, and that about one hundred and forty or fifty of that number have joined him. The decree of John Looney, which has been transmitted to your office, might lead to the belief that a greater number had joined ; and I would be of that opinion myself, had I not re-

ceived such information as I can fully rely on, that a large portion of the signers of Looney's decree were absent, and that, except a very small number of the signers, they were led to believe that it was a remonstrance against a white governor, who, it was reported, the chiefs of the old settlers had requested should be appointed over them; and, therefore, authorized their names to be used in a remonstrance to such a measure.

You will also receive, herewith, a list of the individuals, so far as I am at present informed, who were concerned in the murder of the Ridges and Boudinot; also, a *correct* copy of Governor Stokes's communication to the Cherokee nation, under date of the 11th inst., and a further invitation of the chiefs of the old settlers to the late emigrants to join their government, of the 16th inst.; and should this fail to produce a union, the Government, it is hoped, will direct the measures to be taken to effect that object, which is very important to the security of the Cherokees themselves and their neighbors.

It will be perceived, by the list of individuals concerned in the murder of the Ridges and Boudinot, which I have no doubt is correct, so far as those individuals are known at present, that Bird Doublehead, James Spear, Daniel Colston, and Soft-shell Turtle, served in the convention of Mr. Ross last summer, and signed the proceedings of that body; and it has been repeatedly stated to me that Joseph Spear, and his brother Archibald, belonged to the guard of Mr. Ross.

I was notified, very soon after the murder of the Ridges and Boudinot, that two white men, John Meigs and Nave, connected with Mr. Ross by blood or marriage, and then living at his house, were concerned in the murder of Boudinot, and in making an attempt to murder his brother Stand Watie. The information I received, and which has subsequently been confirmed by unquestionable authority, is, that Nave, on the morning Boudinot was killed, passed Park Hill Mission but a very short time before the murder was committed, and also passed a new house Boudinot was then building; and where he was at that time. As soon as Mrs. Boudinot heard of the murder of her husband, she requested one of the carpenters he had employed to take a horse and go as fast as possible to his brother's, (Stand Watie's,) and notify him of his danger. He complied with this request; and after remaining at Stand Watie's (which is four or five miles from Park Hill) a short time, he overtook the two white men abovenamed, with three armed Cherokees near to them. I at first determined to have these white men apprehended and brought to trial; but, on further consideration, believed that the evidence against them, however satisfactory it might be, of their participation in the foul deeds of that day, would not be sufficient to convict them before a court of justice.

I judge it not amiss, in order that the Government may, in some degree, have the opportunity of judging of the character of Mr. Ross, as respects veracity, again to transmit a copy of his letter to me of the 22d of June last, with a copy of his proceedings in convention of the 12th of July, and of the 7th and 10th of the same month. By the letter referred to, it would appear that Mrs. Boudinot had advised Mr. Ross to leave home for safety; saying that Stand Watie had determined to raise a company of men for the purpose of taking his life. Mrs. Boudinot, when leaving this country, informed Captain Armstrong, acting superintendent, that the statement of Mr. Ross, in this particular, is totally destitute of truth.

I addressed you on the 12th inst., and then referred to my letters in relation to difficulties in the Cherokee nation; and have to request that you will advise me of their having been received.

I am, sir, very respectfully, your obedient servant,

M. ARBUCKLE,

Brevet Brigadier General U. S. A.

To Brigadier General R. JONES,

Adjutant General, Washington City.

No. 10.

CHOCTAW AGENCY WEST, *November 26, 1839.*

SIR: I have the honor to enclose you a petition from the Cherokee chiefs, asking from the department that a delegation of their people be permitted to visit Washington. No satisfactory adjustment of the difficulties between the two parties has, as yet, taken place. The old settlers are determined to hold on, contending that they are the constituted authorities of the nation; while Mr. Ross and his party have been counselling during the summer and fall, and seem equally determined to exercise authority over the Cherokee nation. Until the two parties settle their difficulties, unless otherwise directed by the department, the old chiefs will be recognised by the agent in transacting public business with the Cherokees.

Mr. Ross left a few days since, as understood, for Washington, with a delegation of eight or ten.

Very respectfully, your obedient servant,

WM. ARMSTRONG,

Acting Superintendent W. Territory.

T. HARTLEY CRAWFORD, Esq.,

Commissioner of Indian Affairs, Washington City.

FORT GIBSON, *November 22, 1839.*

SIR: You are aware that Mr. Ross has gone to Washington with a delegation, purporting to represent the Cherokee nation. Since we addressed you, remonstrating against the authority of this delegation to transact any business of a national character with the Government of the United States, we have deemed it right and proper, under all the circumstances, to make an application through you, as our agent, to the War Department, for a delegation of five to visit Washington, to lay before the honorable Secretary of War the causes of the late difficulties between the Cherokee people, and to show, clearly, that every exertion has been made by the old settlers to reconcile the two parties, and to give all a free participation in the government of the Cherokee people. Claiming, as we do, to be the chiefs of the Cherokee people, and protesting against the assumption of John Ross and his self-constituted government, we conceive that the justice of our cause, and the importance of the subject, involving deeply the interest and future welfare of the Cherokee people, make it absolutely necessary that the Cherokees representing the old party have a delegation to be present with Mr.

Ross. We have no other desire but to restore peace and harmony to our people; and we hope our great father will sanction the visit of our delegation to Washington.

We respectfully request that you lay our wishes before the Commissioner of Indian Affairs, and that you be pleased to urge the same. We have no hesitation in saying that our friends General Arbuckle and Captain Armstrong, as well as yourself, will agree with us in the importance of the measure proposed.

We are, sir, very respectfully, your obedient servants,

JOHN ROGERS,
JOHN SMITH,
DUTCH,

Chiefs of the Cherokee Nation.

To General M. STOKES,

Agent for the Cherokees, Cherokee Agency.

WAR DEPARTMENT,
Office Indian Affairs, January 2, 1840.

SIR: Yours of the 26th November last, enclosing a request, of the 22d of same month, addressed to Governor Stokes, by "John Rogers, John Smith, and Dutch, chiefs of the Cherokee nation," making application "for a delegation of five to visit Washington, to lay before the honorable Secretary of War the causes of the late difficulties between the Cherokee people, and to show, clearly, that every exertion has been made by the old settlers to reconcile the parties, and to give all a free participation in the government of the Cherokee people," and giving various reasons for the request, has been received.

These papers have been laid before the Secretary of War, by whom I am instructed to say that it is not necessary "the delegation should come on here, as they may rest assured that justice will be done to them in their absence." The representations have been very full on the subject of the unfortunate differences that exist among the Cherokees, and are understood, it is believed, by the department. Besides, Messrs. Bell and Stand Watie are in Washington, and will, no doubt, be attentive to the duties with which their brethren must have charged them.

It will be the study, as it is the duty, of the Government to do what is right and proper under the circumstances.

You will please to communicate the above to the Cherokees who signed the application made through Governor Stokes, which will, it is hoped, satisfy them that their presence at the seat of Government is entirely unnecessary.

Very respectfully, sir, your obedient servant,

T. HARTLEY CRAWFORD,

Commissioner Indian Affairs.

Captain WM. ARMSTRONG,

Choctaw Agency West.

No. 11.

HEADQUARTERS, 2D DEPT. W. DIVISION,
Fort Gibson, December 5, 1839.

SIR: I herewith enclose the copy of a communication from the Secretary of War, respecting the difficulties that have and are now existing in the Cherokee nation; and request that an answer may be returned as soon as possible, in order that the same may be forwarded to Washington, in accordance with the request of the Secretary. This is addressed to you with a request that you may call together the principal men of the late emigrants, and furnish me with a reply.

I am, sir, respectfully, your obedient servant,

M. ARBUCKLE,
Brev. Brig. Gen. United States army.

JOSEPH VANN,
2d Chief of the Emigrant Cherokees.

True copy:

S. G. SIMMONS, A. D. C.,
and A. A. Adj. Gen. 2d Dept. W. Division.

HEADQUARTERS, 2D DEPT. W. DIVISION,
Fort Gibson, December 6, 1839.

SIR: Mr. Watie, the brother of Stand Watie, arrived here yesterday evening, (after I had written to you,) and assured me that he could not longer remain in safety at his home; and that a relative of his, or of some of the treaty party, was attacked in his bed a few nights since, and his hand nearly cut off by a hatchet; and that several of the treaty party, or their relations, have left home for safety. This state of things, you will perceive, renders it necessary that *immediate and suitable measures* should be taken to insure peace and security to the Cherokee people. I will therefore be glad to see you at this post as soon as possible.

I am, sir, respectfully, your obedient servant,

M. ARBUCKLE,
Brev. Brig. Gen. United States army.

JOSEPH VANN,
2d Chief of the late Emigrant Cherokees.

True copy:

S. G. SIMMONS, A. D. C.,
and A. A. Adj. Gen. 2d Dept. W. Division.

SPRING CREEK, *December 6, 1839.*

SIR: I have received your letter by the hands of your express, dated the 5th instant, and a communication from the Secretary of War, dated the 12th of October last. You requested that I should call together the principal men of the late emigrants, and furnish you with a reply. I complied thus far. I have appointed a time for them to meet, and sent an express for all the principal men of the late emigrants to be notified to attend at

Tahlequah council-ground on the 16th day of this month, and for them to take into consideration the communication of the Secretary. And I also received a letter from the hands of your express, dated the 6th of this month, stating that Mr. Watie, the brother of Stand Watie, had arrived, and assured you that he could no longer remain in safety at his home, and that some injury was done to some of the treaty party; and you further state, "This state of things, you will perceive, renders it necessary that immediate and suitable measures should be taken to insure peace and security to the Cherokee people." I will assure you, so far as I am concerned, and my powers will allow, that they shall not be withheld to insure peace and security to the Cherokee people. You state that you would be glad to see me at the post as soon as possible; it would afford me great pleasure, if it had been in my power, to attend and see you immediately. I have appointed a time for all the principal men of the late emigrants to meet; and I shall make it convenient to call and see you on my way. It would afford me great pleasure to see you, and talk with you respecting the difficulties that exist amongst the Cherokee people.

I am, sir, respectfully, your obedient servant,

JOSEPH VANN,

Assistant Principal Chief.

To M. ARBUCKLE,

Brevet Brig. Gen. United States army.

True copy :

S. G. SIMMONS, A. D. C.,

and A. A. Adj. Gen. 2d Dept. W. Division.

HEADQUARTERS, 2D DEPT. W. DIVISION,
Fort Gibson, December 11, 1839.

SIR: I had the honor, on the 4th instant, to receive your instructions, under date of the 12th of October last, and, in compliance therewith, I addressed two communications to Joseph Vann, second chief of the late emigrants, under dates of the [5th and] 6th instant, copies of which are herewith enclosed, together with his reply of the 6th instant.

The call on Mr. Vann was very necessary at the time it was made, as it will be seen that a relative of one of the treaty party had been attacked, and suffered the loss of one of his hands; and the father and brother of Boudinot are now at this post for protection, and John Smith, a chief of the old settlers, and one of the signers of the treaty of 1835, has, with some of his friends, been compelled to leave home, and remain on the south of the Arkansas river for security; and that portion of the treaty party that have not complied with the decrees of Mr. Ross, and their friends, consider themselves in danger of violence from the Ross party; and the old settlers, who have not joined Ross, do not consider themselves in a much better situation; and, from information recently received, it is probable that my communication to John Ross, of the 14th of October last, prevented Mr. Ross or his partisans from attacking them at their late council. You will, therefore, perceive that the Cherokee people are most unpleasantly situated at this time, independent of the opposition of Mr. Ross and his friends to the murderers of the Ridges and Boudinot being brought to justice, or perhaps to the

United States having any control whatever over transactions in the Cherokee nation.

It is hoped that, at the proposed meeting of the late emigrants on the 16th instant, something may be done to unite the whole of the Cherokee people under one government. You will notice, by my communications, that I have regarded the government of the old settlers as the lawful government of the Cherokee nation, in consequence of their having made a fair proposition, in writing, to the late emigrants, to unite with them in June last. To that proposition Mr. Ross and his friends made no reply, in consequence (as it has been stated) of that proposition having been accompanied by indecorous remarks; yet the subsequent proceedings of Mr. Ross, I judge, will fully satisfy you that he would not have accepted any proposition the old settlers could have made to meet at this post; and the old settlers refused to attend the convention of Mr. Ross, in consequence (as they assured me) of their belief that they could not there oppose any measure proposed by Mr. Ross or his party, without being liable to insult, if not violence.

It will be seen that I have done all in my power to effect a union of the parties in the Cherokee nation; and, as Mr. Ross is now out of the country, it is possible that this important object may be accomplished in a short time; and, as the interest of the Cherokee people, and that of the United States, requires that his authority should be dispensed with in the Cherokee nation, I hope that the Cherokees will themselves think proper to do so; otherwise, if I am correctly informed, (as I believe I am,) a large portion of the old settlers will seek a new country, rather than be subject to the control of John Ross; and John Brown, the former principal chief of the old settlers, has gone to Mexico, with the object, as I am informed, of procuring a country for himself and his friends.

I am informed of many disorders and acts of violence in the Cherokee nation of late, and several of these acts have been committed on our citizens by Indians and white men residing in the Indian country. The greater number of the individuals concerned in the late outrages have been apprehended, and will be turned over to the marshal for the district of Arkansas.

A number of bad white men in the Cherokee nation are doing much injury to the Cherokee people. These white men cannot be kept out of the Indian country, unless legal provision is made to punish them for returning into such country after they have been removed therefrom by the proper authority.

I have of late received positive information that John Ross was at the Double Spring council, with many (or the most) of the principal men of the late emigrants, on the Wednesday before the Ridges and Boudinot were killed; and, from information derived from the same source, it would appear almost certain that Edward Gunter was in the woods near Boudinot's when he was killed; and it has been frequently reported to me that Mr. Lynch, who is now with Mr. Ross, was present when John Ridge was killed; and that the party halted at his house the same day, where they took their breakfast. The information I have received of his being present when Ridge was murdered, I could not fully rely on, and therefore took no measures to have him apprehended; but I have no doubt of the party having called at his house the morning the murder was committed.

I do not regard it necessary further to notice this subject at present, as the papers I addressed to the Adjutant General last summer and fall will

inform you of those that must have had a material agency in the murders that have been committed.

In a recent communication to the Adjutant General, I mentioned a man called Nave, as being concerned, or connected, in the murder of Boudinot. I had been informed that he was a white man; I have since learned that he is a nephew of John Ross, and is regarded a Cherokee.

I regret that Colonel Kearney did not at once comply with the instructions he received, to strengthen this post with a part of his regiment. I expect three companies of his regiment here about the last of the present month; I have required no more, in consequence of there being no quarters for a greater number, and from the belief that, with such increase of force the wishes of the Government can be accomplished, and peace preserved.

I will not lose a moment in communicating to you the reply required of the principal men of the late emigrants, which will probably be received about the 22d instant. The old settlers, you are apprized, are the friends of the treaty party, notwithstanding they consider the treaty very unjust to them, as they have furnished a country for the late emigrants, and are not entitled to receive a cent of the money to be divided. After the claims of every kind are satisfied, the sum that will be to divide, they believe, will be very considerable, if unnecessary claims are not allowed, and that they are, in common justice, entitled to an equal share of that surplus.

I have the honor to be, with great respect, your obedient servant,

M. ARBUCKLE,

Brevet Brigadier General U. S. A.

HON. J. R. POINSETT,

Secretary of War.

No. 12.

HEADQUARTERS, 2D DEPT. W. DIVISION,
Fort Gibson, December 14, 1839.

GENTLEMEN: I herewith transmit, for your information, an extract of a letter addressed to me from the War Department, under date of the 9th ultimo, containing the determination of the Government in relation to the murderers of the Ridges and Boudinot; and, in addition, it is proper that I should inform you that Major Armstrong will be instructed to pay no more money to the Cherokees until this matter is settled, and peace is restored to the Cherokee nation. To effect these highly important objects, a union of the old settlers and the late emigrants is indispensably necessary; and it is, therefore, earnestly hoped that the ambitious or selfish views of no one will prevent the accomplishment of this object at an early period; and this, it is believed, can be effected without delay, provided it should be determined that each party shall be represented in the new government by individuals of their own choice, and in proportion to their numbers.

I have understood that some of the Cherokees have expressed a belief that I had prevented the money due to them being paid. I therefore regard it proper to assure you that I have never written a word to the Government on that subject; on the contrary, I am fully apprized of the needy

condition of the late emigrants, and hope that you will adopt such measures as will, at an early period, remove all difficulties in relation to that matter.

The Government will no doubt expect to be informed if the decrees affecting the treaty party will be repealed or enforced.

In relation to the murderers of the Ridges and Boudinot, it is not my wish to have any apprehended, except the leaders of the parties, and those that were materially concerned in these murders.

If I can be of any service to you in effecting a union of the Cherokee people, I will most cheerfully render you every aid in my power; and should the parties agree to a meeting here, they may rely on my best exertions in assisting them to restore quiet to the Cherokee nation, or to furnish them every facility to accomplish that object themselves.

I am, gentlemen, very respectfully, your obedient servant,

M. ARBUCKLE,
Brevet Brig. General U. S. A.

JOSEPH VANN,

*Assistant Chief of the late Emigrant Cherokees,
and others, in council, near Illinois river.*

True copy :

S. G. SIMMONS, A. D. C.,
and A. A. Adj. Gen., 2d Dept. W. Division.

HEADQUARTERS, 2D DEPT. W. DIVISION,
Fort Gibson, December 15, 1839.

DEAR SIR : You will receive herewith an extract of a letter from the Secretary of War, under date of the 9th ultimo; also a copy of my letter to Mr. Vann, assistant chief of the late emigrants, of the 14th instant; by which you will be informed of the determination of the Government in relation to affairs in the Cherokee nation, and of my views of what ought to be done, and without delay, to prevent much injury and misery to the Cherokee people. Mr. Vann appears to be as fully satisfied as I am that the Cherokee nation cannot be restored to quiet unless justice is done to all; and that it will be difficult, if not impossible, to effect this object if Mr. Ross is to hold office. I have informed Mr. Vann that if the old settlers, who are about one-third of the nation, can have one of the chiefs, and the emigrants two, with a similar proportion of the subordinate officers, they ought to be satisfied; and if Mr. Lowrey, Judge Martin, and yourself, were appointed chiefs, I would have full confidence that peace would immediately be restored to the Cherokee nation. Will you not assist me to effect this desirable object? I think you ought, and on the terms proposed.

I am, sir, very respectfully, your obedient servant,

M. ARBUCKLE,
Brevet Brigadier General U. S. A.

TO JOHN ROGERS,

Principal Chief of the Old Settlers, near Fort Gibson.

True copy :

S. G. SIMMONS, A. D. C.,
and A. A. Adj. Gen., 2d Dept. W. Division.

HEADQUARTERS, 2D DEPT. W. DIVISION,
Fort Gibson, December 18, 1839.

SIR: I had the honor, on the 11th instant, to address you in relation to affairs in the Cherokee nation; and on the same evening received your instructions of the 9th ultimo, a duplicate of which was handed to me by Lieutenant Winder on the 15th instant.

You will herewith receive a copy of a letter I addressed to Mr. Joseph Vann, assistant chief of the late emigrants, and others, under date of the 14th instant; also of one addressed to John Rogers, principal chief of the old settlers, on the 15th. To each I furnished an extract of your instructions of the 9th ultimo, commencing at the beginning, and ending with the following language: "And they can do so in no manner so effectually as by seizing and punishing the assassins who murdered the Ridges and Boudinot."

I judged it best, to furnish both parties with this information, and to promote their union, to address them as I have heretofore done; yet it is very probable that the Eastern Cherokees, and those that have joined them, supposed to be about two-thirds of the whole Cherokee people, will decide that the government they have formed must be complied with by the opposite party. In that event, it is difficult to say when the Cherokee nation will be restored to quiet, as the old settlers, with the emigrants that have joined them, claim to be more than one-third of the nation; are not represented by an individual of their own choice in the government formed by Mr. Ross; and, independent of this, a considerable number of the treaty party, as well as the old settlers, will leave this country if he is to continue at the head of the Cherokee government.

The late emigrants, or the government established by Mr. Ross, are now in council, and I expect to hear from them in a few days, when I will detach Lieutenant Winder in charge of such answer as they may think proper to make in relation to the matter contained in your communications of the 12th of October last and 9th ultimo, and will then do myself the honor to reply more fully to the latter.

I have the honor to be, sir, with great respect, your obedient servant,

M. ARBUCKLE,

Brevet Brigadier General U. S. A.

Hon. J. R. POINSETT,

Secretary of War, Washington City.

No. 13.

HEADQUARTERS, 2D DEPT. W. DIVISION,
Fort Gibson, December 24, 1839.

SIR: I this evening received from Governor Stokes, your agent, the proceedings of your last council; among which there is no reference made to the subject for which the council was called, viz: the communication from the War Department under date of the 12th October, an answer to which is required by the Secretary, and was requested by me. I have now

to repeat my solicitation, and urge that an answer be given in relation to that document. Your reply is requested by return of express.

I am, sir, respectfully, your obedient servant,

M. ARBUCKLE,
Brevet Brig. Gen. U. S. Army.

To JOSEPH VANN,
Assistant Chief of the late Emigrants.

P. S.—An officer from Washington is now awaiting your answer at this post. M. A.

True copy :

S. G. SIMMONS, A. D. C.,
and A. A. Adj. Gen., 2d Dept. W. Division.

CHEROKEE NATION,
Near Neosho river, December 24, 1839.

SIR : I this evening received by express your letter of the 24th December. You state that you had seen Governor Stokes, our agent, and the proceedings of our last council, and among which there is no reference made to the subject for which the council was called, viz : the communication from the War Department, under date of the 12th of October, an answer to which is required by the Secretary of War.

The extract of letters which I received, of the Secretary of War, (one under date 12th October, and the other 9th November,) and your two letters to me, I submitted to the national committee and council, when assembled : they were then read and interpreted, and taken into consideration. An answer was about to be prepared when I received a letter from you, by express, at the council, requesting that the council should go into some arrangement to settle the difficulties that exist in our country ; and also Gov. Stokes said, in his address to the council, that he wished the Cherokee people to meet this winter, or early next spring, for the purpose of settling their difficulty. The national council has taken your request and that of Gov. Stokes into consideration, and then appointed a committee to confer with Governor Stokes as to the time and place when the Cherokee people should meet for the purpose of settling their difficulty ; the time and place which was appointed I expect you have seen.

It appears to be the view of the Secretary of War, in the extract of his letter under date 12th October, that the Cherokee people should be called together, and a majority, fairly obtained, should govern. The time is appointed for the Cherokee people to meet on the 15th of next month ; then I will call on the national committee and council to answer the Secretary of War's communication ; that is, as soon as it will be convenient.

I am, sir, respectfully, your obedient servant,

J. VANN, *Assistant Chief.*

To M. ARBUCKLE,
Brevet Brig. Gen. U. S. Army.

True copy :

S. G. SIMMONS, A. D. C.,
and A. A. Adj. Gen., 2d Dept. W. Division.

TAHLEQUAH, CHEROKEE NATION,
December 20, 1839.

The following understanding and agreement is entered into between Montfort Stokes, United States agent for the Cherokee nation, and Joseph Vann, David Vann, Richard Taylor, Charles Coodey, and W. S. Coodey, a committee specially appointed thereto by the national council :

It is mutually agreed that a friendly and general invitation shall be given to all the Cherokee people to assemble at Tahlequah on the 15th day of January, 1840, in order that the will of a majority of the Cherokees may then and there be fairly and properly ascertained in relation to the government of the nation ; the object being to establish peace and to restore quiet among all the people, and to satisfy the Government of the United States which is the government of their choice.

The Cherokees promise, on their part, that no person of the treaty party, or of any other party or politics, shall be molested in attending said meeting, either in coming, while remaining, or returning to their homes ; and will use every exertion to maintain strict order and propriety, that the proposed meeting shall be of a friendly character, and all business transacted in harmony and good feeling.

Written notices shall be sent throughout the country, signed by the undersigned, requesting prompt and general attendance of all parties at the time designated ; and the declared will of the majority at the meeting shall be reported to the Government of the United States as the decision of the Cherokees in relation to their future government.

M. STOKES,

Agent for the Cherokee Nation.

JOSEPH VANN,

Assistant Principal Chief.

DAVID VANN,

RICHARD TAYLOR,

CHARLES COODEY,

W. SHOREY COODEY.

True copy:

S. G. SIMMONS, A. D. C.,

and A. A. Adj. Gen. 2d Dept. W. Division.

TO THE CHEROKEE PEOPLE.

You are hereby invited and requested to assemble at Tahlequah, near the Illinois river, on the 15th day of January next, then and there to decide, by vote, which shall be the government of the Cherokee nation, in order that peace and friendship may be restored throughout the country, and the Government of the United States satisfied as to the will and choice of the Cherokees in relation to this matter.

The undersigned have entered into an agreement that this meeting shall be conducted with strict order, and that no person of the treaty party, or of any other party or politics, shall be molested or ill-treated, either in coming to, while remaining at, or returning from, the council to their homes, and all business transacted in good feeling and harmony.

All the people of all parties whatever are invited, and desired to be in prompt attendance, to declare their will, by their vote, that future strife may subside, and the same reported to the President of the United States.

M. STOKES,

Agent for Cherokee Nation.

JOSEPH VANN,

Assistant Principal Chief.

DAVID VANN,

RICHARD TAYLOR,

CHARLES COODEY,

W. SHOREY COODEY.

TAHLEQUAH, CHEROKEE NATION, *December 20, 1839.*

True copy :

S. G. SIMMONS, *A. D. C.,*

and A. A. Adj. Gen. 2d Dept. W. Division.

HEADQUARTERS, 2D DEPT. W. DIVISION,

Fort Gibson, December 19, 1839.

GENTLEMEN: I received by the mail last evening a copy of a communication from the Commissioner of Indian Affairs to Captain Armstrong, a copy of which is herewith transmitted for your information.

It is with your council at once to settle all difficulties in the Cherokee nation, which, as I judge, cannot be effected except on terms of perfect justice to both parties. I therefore entreat you to act promptly in this highly important matter, that the Cherokee people may be restored to quiet and good feeling towards each other.

Captain Armstrong has informed me that he is appointed to act on the claims of the Cherokees against the Osages, and that he will attend to that duty soon after his return from Red river, where he is at present.

I am, gentlemen, very respectfully, your obedient servant,

M. ARBUCKLE,

Brevet Brig. General U. S. A.

JOSEPH VANN,

*Ass't Chief of the late Emigrants, and others,
in council near Illinois river.*

True copy :

S. G. SIMMONS, *A. D. C.,*

and A. A. Adj. Gen., 2d Dept. W. Division.

HEADQUARTERS, 2D DEPT. W. DIVISION,

Fort Gibson, December 26, 1839.

SIR: I had the honor to address you on the subject of affairs in the Cherokee nation on the 18th instant, when I entertained a hope that I would, before this, have had it in my power to furnish you with a satisfactory reply (from the late emigrants) to your communication of the 12th of October last; yet, to my great astonishment, the late council adjourned

without taking the least notice of the subject to which their reply was demanded when they were required to assemble. In relation to this matter, you will herewith receive a copy of my letter to Mr. Vann, under date of the 24th instant, and his reply thereto of the same date; also, a copy of an invitation by the agent of the Cherokees, dated on the 20th instant, (with the Ross party,) for a general meeting of the Cherokee nation on the 15th of the next month; and a copy of an agreement between that party and the agent, on this subject, of the same date; also, a copy of my letter to Mr. Vann, of the 19th instant.

Two of the chiefs of the old settlers are here, together with Star, Adair, and several others of the most respectable and intelligent of the old settlers and treaty party, and they regard the invitation to them to meet on the 15th of the next month as having no other object than to ascertain which party has the *greatest number*, and not for the purpose of a union on terms of justice to all; and they are, I judge, disinclined to attend that council, as they do not regard themselves and their friends to be the majority of the Cherokee nation, notwithstanding at least seven hundred men, principally heads of families, (of the late emigrants,) have joined them of late, and that in one month or less they would have had the majority of the whole nation on their side, had it not been prevented by your late communications, which I judged it my duty to communicate. And with regard to the affairs in the Cherokee nation, I cannot but regret that Lieutenant Winder arrived at my quarters when Mr. Vann was present, and, in his presence, assured me that you had requested him to say to me, at the moment of his departure, that peace must be preserved in the Cherokee nation, or words to that import. It is not, however, my wish to censure Lieutenant Winder in the slightest degree, as these remarks were made, at the first moment of his arrival, without a knowledge of the probability of their being understood, or used in any way to prevent a union of the parties on terms of justice, or to do injury otherwise. And I am now fully satisfied *that no other terms* will, at an early period, give quiet to the Cherokee people; and to effect this object, that each party must be fairly represented in a new government, agreeably to their numbers, and the *decrees* of Mr. Ross's convention in relation to the treaty party annulled. I am decidedly of opinion that, unless the Ross party, at the contemplated meeting on the 15th of next month, should make such overtures to the old settlers as are just, quiet cannot be had in the Cherokee nation, and, at least, many murders may be expected; and, in the event of the failure of the present plan to restore peace in the Cherokee nation, I cannot conjecture how that object is to be insured, except by the Government of the United States compelling them to unite on terms of equity; and this will, very probably, have to be resorted to. The Ross party majority is not so great as to render it probable that the opposite party will comply with their will and pleasure without being represented by an individual of their own choice.

The treaty party and old settlers, as you can readily imagine, are much opposed to John Ross having any authority in the Cherokee nation; and the United States are still more interested in dispensing with his authority.

If the difficulties in the Cherokee nation are not settled at an early period, the United States must, and ought to, dictate the terms; and, if the necessary authority is given to me, this difficulty will soon end, if not settled by the Cherokees themselves. I judge that it will only be necessary for them to know that I am authorized to call a force from Arkansas and

Missouri to settle this dispute, without the necessity of that force being called into actual service.

I have consulted the United States attorney for the district of Arkansas, who is decidedly of opinion that the murderers of the Ridges and Boudinot cannot be tried in the courts of the United States. Major Ridge having been killed within the State of Arkansas, the murderers of him can be tried by the laws of that State. I have not as yet been able to capture any of the individuals implicated, and have directed the search for them to be discontinued during the late council; and this search will probably be discontinued until after the breaking up of the contemplated meeting on the 15th of January, not wishing to throw any impediment in their way to prevent a general attendance.

I have the honor to be, sir, with great respect, your obedient servant,

M. ARBUCKLE,

Brevet Brigadier General U. S. army.

Hon. J. R. POINSETT,

Secretary of War, Washington City.

FORT GIBSON, *December 27, 1839.*

GENTLEMEN: Having seen notifications purporting to be in accordance with an agreement entered into between our agent, Governor Stokes, and Joseph Vann and others, of the Ross party, we would, therefore, beg leave most respectfully to call your attention to this matter; and while we are constrained to protest against the illegal acts of Joseph Vann and others, we would not have our agent (Governor Stokes) to think that we are in the least disposed to censure him for his noble efforts to bring about a reconciliation, and thereby restore peace and harmony to the Cherokee people; for, above all others, this should be the desirable object, and one that our acts plainly demonstrate have been sought after by us. But we do not believe that the meeting called by Joseph Vann and others, (if we understand the design of it,) can effect any thing good for our people.

In the first place, the legal authorities of the Cherokee nation west have not been consulted, nor have they had any agency in convening the people to decide by vote which government shall prevail.

Secoudly. We do not predicate the legitimacy of our government barely upon numbers; for long has the United States Government acknowledged our government, and treated us as a nation. And how often has Mr. Ross, while wielding the government of the Eastern Cherokees, done the same, and contended that we were distinct communities?

How strange does it appear now, for Mr. Ross and his partisans to attempt by threats and violence to abrogate our laws, and place a government over our heads without our consent.

We appeal to you again, and to the Government of the United States, to see that justice is done. It is plainly to be seen what would be the consequence if the Ross party should succeed in their present plan to get the United States to acknowledge the legitimacy of their government, under existing circumstances. A goodly number of our respectable citizens would be under proscription; while a large portion of our people would be stripped of their rights and unrepresented in the government, while crimes of the deepest die would go unpunished. To such a state of things as this we

never can consent; but we ever have been, and are yet, willing to come to a friendly understanding, in which the rights of all shall be respected, and equal justice done to all; but we do most earnestly protest against any assumed right or illegal steps of individuals to the contrary. Nevertheless, you are at liberty to notify the opposite party that we are willing to meet them here, (at Fort Gibson,) by each party choosing twelve men, and meet here at any time they may appoint, for the purpose of making such arrangements for the future government of the Cherokee nation as may be calculated to restore peace to the Cherokee people; and we agree to abide the decision of said committees.

We are, gentlemen, with high respect, your friends,

JOHN ROGERS, P. C.

JOHN SMITH,

DUTCH,

THOMAS WILSON,

Chiefs of the Cherokee Nation.

Secretary C. C. N.

To Gen. M. ARBUCKLE and Gov. M. STOKES,

Agent for Cherokees.

True copy:

S. G. SIMMONS, A. D. C.,

and A. A. Adj. Gen. 2d Dept. W. Division.

HEADQUARTERS, 2D DEPT. W. DIVISION,

Fort Gibson, December 27, 1839.

SIR: I have this moment received the original (of which the accompanying is a copy) from the chiefs of the old settlers, which is transmitted for your information; and, although I do not doubt that the present intentions of the late emigrants are opposed to a union with the old settlers on the terms proposed, yet I am not without a hope that the proposition will be accepted, and that peace will thereby be restored to the Cherokee nation.

I have the honor to be, sir, with great respect, your obedient servant,

M. ARBUCKLE,

Brevet Brig. General U. S. A.

Hon. J. R. POINSETT,

Secretary of War, Washington City.

No. 14.

FULLER'S HOTEL, December 31, 1839.

The compliments of the undersigned, representatives of the Cherokee people, to the Hon. Joel R. Poinsett, Secretary of War, and beg leave to report their arrival in the city on business of the Cherokee nation with the United States Government.

The delegation would be happy to pay their personal respects to the Hon. Secretary of War and the President of the United States at such time as they may be pleased to designate.

We have the honor to be, sir, very respectfully, your obedient, humble servants,

JOHN ROSS,
JOSEPH M. LYNCH,
LOONEY PRICE,
ELIJAH HICKS,
EDWARD GUNTER,
GEORGE HICKS,
his
ARCHIBALD x CAMPBELL,
mark.
his
JOHN x LOONEY,
mark.

WAR DEPARTMENT, *January 2, 1840.*

The Secretary of War is instructed by the President to say, in reply to the Cherokees claiming to be representatives of that people, and expressing their desire to pay their personal respects to the President and Secretary of War, that, until a full investigation has been had of all the circumstances attending the foul and cruel murders lately perpetrated in the Cherokee country upon the innocent and unoffending chiefs the Ridges and Boudinot, the Government will hold no communication with John Ross.

The Secretary of War will receive the other members of the delegation to-morrow at one o'clock.

TO JOSEPH M. LYNCH,
LOONEY PRICE,
ELIJAH HICKS,
EDWARD GUNTER,
GEORGE HICKS,
ARCHIBALD CAMPBELL,
JOHN LOONEY,
Fuller's Hotel.

WASHINGTON CITY, *January 3, 1840.*

SIR: The undersigned, a portion of the delegation from the Cherokee nation, have the honor to acknowledge the receipt of your communication of yesterday. They regret to learn that the Government has determined "to hold no communication with John Ross," the principal chief of the nation, "until a full investigation has been had of all the circumstances attending the foul and cruel murders lately perpetrated in the Cherokee country upon the innocent and unoffending chiefs the Ridges and Boudinot."

If an investigation had been made, and the guilt of Mr. Ross had been established, or even if pregnant circumstances of suspicion had been ex-

hibited upon a full and impartial examination of the case, the undersigned would have felt no surprise at the views indicated in your communication.

When such investigation shall be instituted, Mr. Ross will be prepared to meet it. None such, however, has yet been made; and ignorant as we are of any circumstances that can fix upon Mr. Ross any participation in the acts of which he is thus at least impliedly accused, it appears to us that, independently of other reasons for our course, it might appear that we lent our sanction to the charge, if we were, under existing circumstances, to accept the invitation you have been pleased to offer, of waiting upon you to-day, to the exclusion of Mr. Ross, one of the constituent members of the delegation.

Having averred our ignorance of the grounds upon which Mr. Ross has been thus gravely and publicly accused, we hope we shall not be considered as going beyond the strict line of our duty if we request that you will furnish to us the names of Mr. Ross's accusers, and the evidence which has been exhibited to the department implicating him in the acts to which you have alluded.

We have the honor to be, sir, your obedient, humble servants,

JOSEPH M. LYNCH,
ELIJAH HICKS,
EDWARD GUNTER,
LOONEY PRICE,

his

ARCH. x CAMPBELL,
mark.

In behalf of others.

Hon. JOEL R. POINSETT,
Secretary of War.

WASHINGTON CITY, January 3, 1840.

SIR: The undersigned has seen with pain and astonishment the reference to him, by name, as connected with recent occurrences in the Cherokee country, in your recent official report. With similar feelings he has perceived that he is by strong implication accused by you, in your communication to those associated with him as delegates from the Cherokee nation to this Government, of having participated in the murders of the Ridges and Boudinot. The grounds upon which so serious an accusation has been thus preferred by so high an authority as yourself, are unknown to the undersigned; but he cannot but presume them to be strong in themselves, and emanating from a credible source, before they would have been deemed sufficient to justify so weighty a charge, and such confidence in its truth, as to lead to an ignominious exclusion from participating in the important public business intrusted to him in conjunction with others. These circumstances impose upon me a duty, and I conceive confer upon me a right, to call for the names of my accusers, and the evidence upon which my name has been thus associated with acts of which I was at the time entirely ignorant, and of the guilt connected with which I am absolutely innocent.

I have the honor to be, sir, very respectfully, your obedient, humble servant,

JOHN ROSS.

Hon. JOEL R. POINSETT,
Secretary of War.

WAR DEPARTMENT, *January 4, 1840.*

The undersigned has received the note of the Cherokee delegation, declining the invitation tendered to them, and asking to be furnished with the names of John Ross's accusers, and the evidence which has been exhibited to the department implicating him in the acts to which allusion was made—meaning, as the undersigned supposes, the cruel murders committed in the Cherokee country. The evidence which has led this department to regard John Ross as the instigator and the abettor of those foul deeds of blood, as he is confessedly the defender of the murderers, shall be produced in the progress of the investigation which has been instituted.

In the mean time, it is the unalterable determination of the department to hold no communication with him. From the remaining portion of the delegation the undersigned is ready to receive any communication relating to the business which has brought them to Washington, but will hold no further correspondence with them in relation to John Ross.

Very respectfully, your obedient servant,

J. R. POINSETT.

MESSRS. JOSEPH M. LYNCH,
LOONEY PRICE,
ELIJAH HICKS,
EDWARD GUNTER,
GEORGE HICKS,
ARCHIBALD CAMPBELL,
JOHN LOONEY.

No. 15.

WAR DEPARTMENT,
Office Indian Affairs, January 29, 1840.

SIR: By direction of the Secretary of War, I herewith transmit copies of the correspondence between the War Department and certain Cherokees claiming to be representatives of the Cherokee nation; also, a memorandum of the substance of what passed at an interview between the Secretary and Mr. Lewis Ross and two other Cherokees.

These papers you will transmit to Governor Stokes, with instructions to submit them to the Cherokee people of both parties.

Very respectfully, your obedient servant,

T. HARTLEY CRAWFORD.

Capt. WM. ARMSTRONG.

No. 16.

WASHINGTON CITY, *January 8, 1840.*

SIR: Presuming that every thing showing the state of affairs amongst the Cherokees, at this time, is of interest to the department, the undersigned have the honor to submit for its information the enclosed extract of a letter recently received from Mr. George W. Adair, one of the signers of the late Cherokee treaty. He is a gentleman upon whose statements all confidence may be placed. The council to which he alludes is that of the old settlers,

convened on the 10th of October last. The undersigned have no expectation that the delegation spoken of by Mr. Adair will come on to this city, for the purpose of co-operating with us.

We have the honor to be, very respectfully, your obedient servants,

J. A. BELL,
STAND WATIE.

Hon. T. HARTLEY CRAWFORD,
Commissioner of Indian Affairs.

CHEROKEE NATION, November 26, 1839.

DEAR FRIENDS: Our council broke up harmoniously, and have done much credit to themselves. Brown has deserted his country, and gone to seek an asylum in Mexico. Our council organized, and filled up all vacancies. John Rogers was elected first chief, John Smith second chief, and Dutch third chief; Will Rogers treasurer, James Starr and John Hass executive council.

A resolution was passed organizing a supreme court, and John A. Bell was elected chief justice. Those white men who arrayed themselves against the civil authority of the country, and in favor of the proceedings of Ross, are to be expelled the nation. A law was also passed imposing a fine of five hundred dollars upon any one who shall attempt to enforce the laws of the Ross faction. Sheriffs and light-horse were appointed in each district, and authorized to press as many men as they shall require, to enforce *our* laws. The chiefs were also, by the council, authorized to appoint and send on a delegation to co-operate with you. General Arbuckle has treated us with much kindness; he has made several unsuccessful attempts to arrest the murderers of the Ridges and Boudinot; they cannot be arrested but by sending out large military parties. John Ross and his delegation started on the 15th instant for Washington; they will be there before this reaches you. You must do all you can to throw the annuities into the hands of the old settlers, and to give them an equal portion of the *per capita*. Prevent Ross from selling the 800,000 acre tract. Colonel Adair says that Ross is desirous of making some new arrangement with the Government. It will not surprise me if we have a brush this winter, between the authorities and adherents of the two governments.

No. 17.

WASHINGTON CITY, January 22, 1840.

SIR: The late bloody proceedings of the Ross party among the Cherokees, in the murder of the Messrs. Ridges and Boudinot, the leading members of the treaty party, and the subsequent acts of what is styled the convention of the nation, in overthrowing the government of the old settlers, and in outlawing and hunting down the surviving prominent individuals of the treaty party, have so exasperated the feelings of these parties against each other, that it is no longer possible for them to live together as one community, subject to the same laws and government.

Deeply impressed with the correctness of this opinion, and ardently desiring that such a course may be adopted by the Government of the

United States as will lead to the permanent settlement of these difficulties, and the advancement of the true interest of the whole Cherokee people, the undersigned, representing the treaty party, would respectfully suggest the following plan, as the best, in their opinion, to accomplish this object:

1st. A division of the Cherokee territory, so as to throw the old settlers and treaty party together, and all who may choose to stay with them, securing them in the right of self-government; and Ross and his party to themselves, leaving them to manage their own affairs.

2d. A division of the annuity of the nation between these parties. By a separation of this kind, those embittered feelings, growing out of the causes above enumerated, would gradually subside, and peace, instead of that strife and discord which is now prevailing, might be expected in a short time to wave her banner over the entire nation.

Should this suggestion meet with your favorable consideration, and should you conclude to carry it into effect, we would respectfully recommend that Captain William Armstrong and General Arbuckle be intrusted with its execution. We trust you will not deem it improper in us to state the course of policy which we, and those we represent, intend to pursue, in the event of our separation from the Ross party.

It will be our first object to cultivate peace and friendship with the people and Government of the United States; and, next to this, attend to the education of our rising generation. To accomplish this, we propose to collect as many of our intelligent citizens together as take an interest in education, and form a village; in which we will locate, if our means be adequate, a college, and such other institutions of a lower order as will be sufficient to accommodate all the youth of our country. We flatter ourselves that, by such a course as this, we shall in a short time be able to draw around us, and unite together, all the wealthy and intelligent of the country, without distinction of party; and it will not be too much to hope that, in a short time, we shall present to the world a spectacle different to what is now seen in our country—a community where good order and good security may be found, and where all will be engaged in feeding the lamp of science, that its light may be shed throughout the entire surrounding Indian community. There are, at this time, in the limits of the States of Georgia, North Carolina, and Tennessee, at least 1,200 Cherokees, many of whom are wealthy and intelligent, who would glory in joining us in this enterprise. We would therefore respectfully suggest that, in the event of the country being divided, a portion both of the annuity and the land be assigned to them with the treaty party.

We have the honor to be, very respectfully, your obedient servants,

WILLIAM ROGERS,
JNO. A. BELL,
STAND WATIE.

Hon. J. R. POINSETT.

WAR DEPARTMENT, *January 30, 1840.*

SIR: I transmit herewith a copy of a communication addressed to the department by three representatives of the treaty party of the Cherokees, stating the exasperated feelings which exist between their party and that of Ross, and suggesting a plan which will, in their opinion, tend to the pacification and to the advancement of the interest of the whole Cherokee people.

In compliance with the wishes of these gentlemen, you are requested, in conjunction with General Arbuckle, to devise and submit a plan by which the object they desire may be accomplished with the consent of the parties interested.

Very respectfully, your obedient servant,

J. R. POINSETT.

To Captain WILLIAM ARMSTRONG,
Fort Gibson, Arkansas.

(Same to B r ig. Gen. M. ARBUCKLE,
Fort Gibson, Arkansas ;

Substituting the words "in conjunction with Captain William Armstrong," instead of "in conjunction with General Arbuckle.")

No. 18.

HEADQUARTERS, 2D DEPT. W. DIVISION,
Fort Gibson, January 14, 1840

FRIENDS : I have received from your assistant chief, Mr. Joseph Vann, and others, an invitation to attend a meeting of the Cherokee people, on the 15th instant, for the purpose of being correctly informed (if I understand the object of the meeting) which of the two governments in the Cherokee nation is preferred by a majority of the people.

I would with great pleasure attend the proposed assemblage of your people, had not the old settlers refused to attend, and you failed to make a proposition calculated to settle the protracted contest for authority in the Cherokee nation on terms that would restore peace to the Cherokee people. I will, however, (as I am required to have peace restored to the Cherokee nation,) send Captain Page, an officer of high character, to witness or certify to any fact you may regard material to your pretensions to the government of the Cherokee nation.

The President of the United States has very justly recognised the right of a majority to rule ; but, at the same time, he supposed that this right would be exercised judiciously, and in a manner not calculated to authorize murder and excite intestine commotions. If, therefore, your government has authorized murder and excited intestine commotions, you will perceive that these objections must be removed in a peaceable manner, before it is liable to be acknowledged by the United States.

Had your late council transacted the business for which it was mainly called, in the way anticipated, you would have been relieved from some of the embarrassments you labor under ; yet, independent of these, from which you can relieve yourselves at the proposed meeting, you will perceive that it is necessary that you should restore peace to the Cherokee people.

I would ask you, how peace can be given to the Cherokees, and violence and murders be prevented in your nation, except by your uniting with the old settlers, who have made frequent propositions to you to effect that object, without success ? And it appears that you must now be fully convinced that there is no other plan by which the present excitement in your nation can be allayed, and peace and security given to the Cherokee people. You are, no doubt, informed that John Smith, one of the signers of the treaty of 1835, and a chief of the old settlers, and Starr, with several of the relations of the signers of that treaty, with some of the old settlers, have

been compelled to leave their homes, of late, in consequence of attempts made to kill some of them, and threats, (as it is said,) by the late emigrants : and you cannot be uninformed that acts of violence take place very frequently of late in your nation, and that these outrages principally result from party feeling. How is this wretched state of things to be prevented, except by a friendly union of the parties on terms of justice, by which each party would be represented in a new government by individuals *of their own choice*, agreeably to their number.

It is not contended by any one, so far as I am informed, that the old settlers, and those that have joined them, are a majority of the Cherokee nation ; therefore, if it should be decided that three chiefs shall be at the head of the Cherokee government, two of them, of course, would be from the late emigrants, and one from the old settlers—and if these chiefs were selected with discretion, you will, no doubt, fully agree with me, that peace would readily be restored to the Cherokee nation. And are not the peace and security of the Cherokee people to be preferred to a further effort, on your part, to sustain a government to which a large portion of your people are totally unwilling to submit, and in which they are not represented by a single individual ? This is the question you have to decide ; and I can assure you that it is a matter of no small importance to the Cherokee people how you decide it.

You are not to understand that I am authorized by the old settlers to suggest the terms on which they would be willing to enter into a union with you ; yet I have ventured to make the foregoing remarks from the belief that they will not contend for more than they are justly entitled to. Their chiefs and a number of their principal men were here of late, (by an arrangement of their own,) when they were prevailed on (as they would not attend your meeting) to make another proposition to unite with you, which is herewith enclosed, and, if accepted by you, will, I believe, at an early period, give quiet to the Cherokee people, whose condition will be more deplorable if rejected. If the proposition be adopted, I will furnish provisions for the committees, and every accommodation in my power to enable them to transact their business with comfort ; and I can assure you that no counsel will be given to any individual or party, by myself or those under my orders, unless called for by both parties.

I have already fully communicated to you my opinion of the only proper means known to me to restore peace to the Cherokee people, and I most earnestly hope that my views on this subject may receive from you the weight they are entitled to ; and, from the unfortunate situation of the Cherokee people for the last six months, and nothing having been done to alleviate their sufferings, it now becomes necessary that something should be done, without further delay, to give them relief and quiet.

I request that you will favor me, at an early period, with the result of your deliberations in relation to the subjects referred to in this communication.

I am, gentlemen, very respectfully, your obedient servant,

M. ARBUCKLE,

Brevet Brig. General U. S. A.

JOSEPH VANN,

Assistant Principal Chief of the late Emigrant

Cherokees, and others, at Tahlequah, near Illinois river.

True copy :

S. G. SIMMONS, A. D. C.,

and A. A. Adj. Gen., 2d Dept. W. Division.

Whereas a decree was passed by the Cherokee people, in national convention, at the camp-ground near Illinois river, dated July, 1839, in reference to certain individuals who, by their conduct, had subjected themselves to the displeasure of the Cherokee people, and declaring them ineligible to office for five years : Now, for reasons satisfactory to the Cherokee people, and to evince to the Government of the United States their disinclination to involve their country in a difficulty with the United States in a matter of so small an import, therefore, we, the people of the Cherokee nation, in national convention assembled, do revoke and abolish the aforesaid decree, and the same is hereby revoked and abolished ; and all persons who were affected by its provisions are declared to be entitled, under the constitution and laws of this nation, to the same privileges, immunities, and protection, as provided for and enjoyed by other citizens under the government of the nation.

Done at Tahlequah, Cherokee nation, this 16th day of January, 1840.

J. VANN,

Assistant Principal Chief.

W. SHOREY COODEY,

President National Council.

For and in behalf of from sixteen to seventeen hundred adult Cherokee males who voted in favor of the above ; being no votes in the negative.

True copy :

S. G. SIMMONS,

Aid-de-camp.

Whereas a meeting of the Cherokee people was agreed on and requested by the United States agent and the assistant principal chief and others, on the 15th instant, at this place, and general notification given throughout the country to all parties whatever, and requesting their prompt attendance for the purpose of ascertaining fairly and properly the sense and choice of a majority of the nation in relation to the subject of their future government :

And whereas we, the people of the Cherokee nation, having assembled under this call, and having heard read and interpreted the act of union adopted by the Eastern and Western Cherokees, dated July, 1839, and the constitution framed by a convention composed of members from both parties, in pursuance of the provisions of the aforesaid act, and being satisfied with the same, we do hereby approve, ratify, and confirm the said act of union and constitution, and acknowledge and make known that the government based upon this act and this constitution is the legitimate government of the Cherokee nation, and our choice ; and that it has both our confidence and support.

Done at Tahlequah, Cherokee nation, this 16th day of January, 1840.

J. VANN,

Assistant Principal Chief.

W. SHOREY COODEY,

President National Council.

For and in behalf of from eighteen to nineteen hundred adult Cherokee males who voted in favor of the above ; there being no votes in the negative.

True copy :

S. G. SIMMONS, *Aid-de-camp.*

FORT GIBSON, ARKANSAS,
January 20, 1840.

SIR: In pursuance to your instructions, I proceeded to the Cherokee council that assembled on the 15th of this month, and delivered the communications as directed. On the 17th inst. the letters were read and interpreted to the council; the decree that was passed by the Ross party (so called) was revoked, and gave such Cherokees of the treaty party that were affected by said decree all the rights, privileges, protection, &c., that all other Cherokees enjoyed.

A vote was taken on the subject, and passed unanimously, with the exception of one man; on counting the number of votes, I found them to be from seventeen hundred to eighteen hundred and fifty-five. Mr. Holt, one of the old settlers, and who belongs to the treaty party, was in attendance by request of his people, took down the names of the old settlers that attended the council; he reported to me thirty-five were present, and, out of the thirty-five, thirty-three voted with the Ross party. The chiefs of the Ross party have shown a list consisting of one hundred and fifteen persons that they call the old settlers. How far this statement is correct, I am unable to say; it differs much from that of Mr. Holt, who was selected by the treaty party to attend the council.

With respect, I have the honor to be, your obedient servant,

JOHN PAGE,
Captain 4th Infantry.

Brig. General M. ARBUCKLE,
Commanding.

Names of the old settlers who voted in favor of the constitution of the late emigrants at Tahlequah, January 16, 1840.

- | | |
|--------------------|---------------------|
| 1 Young Wolf | 22 Daniel McCoy |
| 2 Jesse Wolf | 23 Robert Robuck |
| 3 Thom. Wolf | 24 William S. Davis |
| 4 John Wolf | 25 Thomas Davis |
| 5 Lewis Melton | 26 David Castor |
| 6 Looney Riley | 27 Thomas Terrell |
| 7 Josiah Wicket | 28 Moses Paris |
| 8 Charles Coody | 29 Swimmer |
| 9 Rufus Coody | 30 Jos. Drew |
| 10 Ingarim Coody | 31 William Tucker |
| 11 Arch. Coody | 32 Charles Wicket |
| 12 William Keys | 33 John Rogers |
| 13 Isaac Keys | 34 Thomas Tucker |
| 14 Riley Keys | 35 Thomas Taylor |
| 15 Leroy Keys | 36 The Eagle |
| 16 Charles Gourd | 37 July |
| 17 Stinking Greece | 38 Thomas Burtholf |
| 18 Robert Colston | 39 Gun Rod |
| 19 Thomas Candy | 40 Jos. Vann |
| 20 George Fields | 41 David Vann |
| 21 Rider Fields | 42 Chu-wa-loo-kee |

- | | |
|---------------------|----------------------|
| 43 A. Cockeran | 80 Girth Jolly |
| 44 M. Cockran | 81 John Shepherd |
| 45 Robert Paris | 82 John Thom |
| 46 A. Paris | 83 Jacob Thom |
| 47 William Willson | 84 Lewis Riley |
| 48 George Drumgold | 85 William Burges |
| 49 Mink | 86 Ed. Burges |
| 50 Wallet | 87 Cling |
| 51 Och-loo-killer | 88 J. Robins |
| 52 Nick Mule | 89 Robert Waters |
| 53 Walla-ne tah | 90 Wm. S. Coody |
| 54 Smoker | 91 Daniel Coody |
| 55 Tun-noo-ah | 92 Sam Taylor |
| 56 Robert Brown | 93 Nelson Harlan |
| 57 Tom Pegg | 94 J. Nickolson |
| 58 Woman-holder | 95 Wm. Nickolson |
| 59 Sultees Ky Watts | 96 Young Toney |
| 60 Go-about | 97 Jack Spears |
| 61 Old Doctor | 98 Joshua Buffinton |
| 62 Peter | 99 J. A. Thompson |
| 63 Aaron Price | 100 William Thompson |
| 64 Jesse Russell | 101 William Rogers |
| 65 Big Pheasant | 102 Charles Landrum |
| 66 Isaac Busheyhead | 103 H. Landrum |
| 67 Ah-stop lah-tah | 104 Johnson Fields |
| 68 Buck Elk | 105 J. Gowen |
| 69 James M. Payne | 106 John Boston |
| 70 She Cow | 107 Charles McDonald |
| 71 George Guess | 108 A. McLughlin |
| 72 Tar-lah see-nah | 109 Johnson Foreman |
| 73 William Watts | 110 Jos. Back |
| 74 Young Puppy | 111 Bird Doublehead |
| 75 Phillican | 112 Ground Hog |
| 76 Logan | 113 Dave Nightkiller |
| 77 Wasp | 114 James Studenan |
| 78 Keener | 115 Landrum |
| 79 To-ke cunner | |

CHEROKEE AGENCY,
Bayou Menard, January 18, 1840.

I hereby certify that the foregoing list of old settlers of the Cherokee nation west was delivered to me by the council and chiefs at the late meeting at Tahlequah, and I have reason to believe that it is correct.

M. STOKES,
Agent for Cherokee Nation.

TAHLEQUAH, CHEROKEE NATION,
January 17, 1840.

SIR: The meeting of the Cherokee people, under an agreement for their assemblage with the United States agent, has taken place; and your com-

munication of the 14th instant, with other papers in relation to the differences in the nation, read, interpreted, and duly considered.

The two enclosed papers will show the acts and proceedings of this meeting with regard to the decree of July, 1839, and the subject of the government of the nation. The decree was the act of the people who convened in July, and could only be removed by them; the national council having no authority to set aside an act adopted by the people. And this, it is hoped, will explain to you why the council in December did not act upon the subject, and chose rather to defer a reply to the honorable Secretary's communication until this time. The council could not then make such a reply as would be satisfactory.

You will perceive that the decree has been abolished, and that equal privileges and equal justice are secured to all, without exceptions of any kind. We regret the impression, which seems to have obtained, that our laws authorize *murder* and *intestine commotions*; and, in order that this error may be corrected, and that the Government and its public officers may be satisfied that such is not the case, the agent has been furnished with a copy of the constitution and laws. There is no wish to oppress any portion of our citizens, or to restrict the enjoyment of natural rights; on the contrary, efforts have been, and will be, used to maintain harmony and the culture of friendly intercourse among all people.

The other enclosed paper will show the will and choice of the great body of the nation in reference to our own local government. The constitution and new government has been again approved and confirmed; and upon both questions the vote of the people was witnessed by the agent and Captain Page, of the fairness of which they can themselves state. It is believed that the views and wishes of the Government have been complied with as nearly as possible, and that all has been done which could be to restore quiet to the country. It is desirable that peace should prevail: and there is nothing to prevent it, unless the continued opposition of a small number to the known will and feelings of a large majority of the people should defeat this expectation.

As it regards the proposition of John Rogers and others for the appointment of a committee to meet at Fort Gibson, it will be proper to state, that all who hold office are required by the constitution to be sworn to a faithful discharge of the trust reposed in them; and an effort to destroy or change the provisions of this instrument, otherwise than by the mode prescribed, would be more than any are inclined to attempt. This council cannot change or alter the government, and, of course, could not bestow upon a committee such authority. The frightful picture of *crimes* and *proscription* which accompanies the proposal is altogether ideal; and the style of chiefs, used by the signers, gives neither weight nor authority. The appointment of those persons at the Double Springs was not in conformity with any previous usage or regulation, nor is it approved or sustained but by the very limited number who were there; and it may be properly said they represent only themselves.

The complaint that the old settlers are not represented in the new government, we think ill-founded, when one of the two chiefs, and near one-half of all the officers of the government, are old settlers. The great object sought after in framing this government was a regular system of laws, equal rights, and equal justice—a system suited to the wants and improved condition of the people; and their proper execution cannot but tend to the preservation of order and the promotion of the general welfare.

It is our earnest desire that the Government of the United States may be fully satisfied of the peaceable disposition of all the Cherokee people; and that there does not exist any inclination whatever to disturb a friendship extending back to the administration of the first President of the United States, and which we are taught by every day's experience it is our interest to cherish and maintain.

The reports which have reached you that several of the treaty party, and their relations, have been forced to leave their homes in consequence of attempts to murder them, we are confident in stating are entirely incorrect. No such attempts have been made, either by the late emigrants or others; and we are satisfied that those reports have been founded either upon false fears, or a settled design to keep up excitement by their propagation, and ought, in justice to the nation, to be cautiously received.

We have the honor to be, very respectfully, your obedient servants,

WM. SHOREY COODEY,

President of the National Council.

YOUNG WOLF,

Speaker of the Council.

J. VANN,

Assistant Principal Chief.

DAVID CARTER,

Clerk of the Council.

M. ARBUCKLE,

Brevet Brig. General U. S. A.

True copy:

S. G. SIMMONS, *Aid-de-camp.*

TAHLEQUAH, CHEROKEE NATION,

January 17, 1840.

SIR: The national council (now in session) have again before them the communication submitted to the late meeting in December, in relation to the difficulties among the Cherokees; and also the letter addressed to General Arbuckle and yourself, by John Rogers, John Smith, and Dutch, dated 27th December, 1839.

The council, in December, did not believe that they could then make such a reply to the several subjects embraced in the papers submitted by yourself and General Arbuckle as would be satisfactory to your Government, and particularly in reference to the decree of July, 1839, of which the President had signified his disapproval; and chose rather to defer their reply until the assemblage of the people on the 15th instant, as was then agreed. This decree was not the act of the legislative council, but of the people, and could only be rescinded by the same authority. The assemblage of the people has afforded the first and only opportunity for any proper measure in relation to this matter, and the enclosed papers will show their proceedings, both in regard to this, as well as the subject of their future government. The decree of July has been abolished by the people, and the voting was witnessed by yourself and Captain Page, who attended the meeting at the request of General Arbuckle. It was passed prior to the act of union between the Eastern and Western Cherokees, and, of course, before the adoption of the constitution, which followed that act. In this constitution, and all the legislation by the national council, there is no allusion or reference to the decree, nor is there a single word which marks a

difference or distinction with regard to the enjoyment of equal rights, privileges, and justice, among all the Cherokee people.

We regret the impressions which seem to be entertained by the honorable Secretary, that our laws or public acts authorize *murder* and *intestine commotions*; and that you may be fully satisfied of the truth of our denial, we forward you a copy of the constitution and laws for your examination.

The sense and choice of a large majority of the Cherokee nation in relation to the subject of their own local government, you will find fairly and correctly made known in the other enclosed paper, the voting on which you also witnessed with Captain Page. The constitution, you will discover, requires of all persons holding office to be sworn, and they are bound by oath to its support. It was approved and ratified by the people before the election for officers, and it has been again confirmed. How, then, can these officers or this council delegate twelve persons to meet at Fort Gibson, as proposed by Rogers and others, and proceed, by their act or bargain, to alter or change the form or provisions of this government, in opposition to the expressed will and choice of the majority of the people? The council cannot change this constitution, much less can they bestow upon individuals the power to do so.

There may be a small portion of our citizens who, from some circumstances, are dissatisfied; but it is not believed even that fact can justify the introduction of new difficulties and greater excitement, as would assuredly be the case if a change of government be attempted merely to gratify a small number who are in opposition. It is not admitted that those who signed the letter to you of December 27th are in truth chiefs of the Western Cherokees. There are no Western Cherokees in contradistinction to *Eastern* Cherokees. They are all the same, inhabiting the same territory, and possessed of the same rights and the same interests. They are again made one people by the acts of the United States and their own. The meeting at the Double Springs last fall, which gave to the persons the name of chiefs, represented only the few who were there, and not the people of the country. The usages and regulations of the old settlers, as prevailed while they were separate, did not legalize their acts; they were not observed. The people sent no members to that council, and the few persons who attended there possessed no lawful right to act for them. The question in relation to the future government of the nation we consider settled. All has been done which seems to have been required on our part, and the people have spoken for themselves. The wishes of the President have been complied with as far as understood, and this council is not aware that any thing more can be done. The establishment of a regular government—a government of laws, and not of undefined regulations—has been our highest aim; under which equal justice shall be meted to all, and the peace and improvement of our people secured and advanced.

Very respectfully, your obedient servants,

W. SHOREY COODEY,
President National Committee.
YOUNG WOLF,

Speaker Council.

J. VANN,
Assistant Principal Chief.

DAVID CARTER,
Clerk Council.

M. STOKES, Esq., *United States Agent.*

CHEROKEE AGENCY,
Bayou Menard, January 22, 1840.

I hereby certify that the foregoing is a true copy of the report made to me by the Cherokee council which convened at Tablequah in the Cherokee nation on the 15th January, 1840.

M. STOKES,
Agent for Cherokee Nation.

HEADQUARTERS, 2D DEPT. W. DIVISION,
Fort Gibson, January 22, 1840.

SIR : I have the honor to transmit, herewith, two decrees of a convention of the Cherokee people of the 16th instant ; also a copy of my letter to that convention, under date of the 14th instant, and of a reply thereto of the 17th ; and a certified list of the names of the old settlers who were present, and had previously joined the late emigrants, and who are included in the number of voters. It is, however, probable that about one hundred and fifty of the old settlers are in favor of the new government.

I do not believe that the vote given in favor of the new government of the Cherokee nation, at the late assemblage, is a majority of the voters of that nation, yet I have no doubt that a decided majority of the Cherokee people are in favor of that government ; and as it has revoked its decrees in relation to the treaty party, I now regard it my duty, in compliance with the decision of the President of the United States, to notify the old settlers that their government has ceased. I expect to see their principal chief in a few days, when I hope it will be in my power to prevail on him to notify all his officers that their public duties have ended.

This change will no doubt be severely felt by the old settlers generally, who, in their kindness, invited the late emigrants to enjoy with them the lands they have secured for themselves, and who have, in less than one year after their arrival, formed a new government for the nation, in which the old settlers are not represented by a single individual of their own choice. This circumstance, however unjust they may regard it, will not, as I hope, lead to any serious rupture between the parties ; yet, unless something is done to satisfy the old settlers at an early period, frequent violence and murders may be anticipated in the Cherokee nation.

The act of union referred to in one of the accompanying decrees is certainly not entitled to credit, as there were a very small number of the old settlers present who concurred in it, and they acted without authority.

There is, I believe no doubt that the principal men of the late emigrants, with a few exceptions, excited their people against the treaty party in June last, and caused them to murder the Ridges and Boudinot ; yet it is believed that such proof as would convict them of that offence in a court of justice cannot be had.

You will be promptly advised if a serious disturbance is likely to take place in the Cherokee nation.

In addition to the information contained in the documents referred to, you will herewith receive the report of Captain Page, of the 4th infantry, whom I ordered to attend the assemblage of the Cherokees on the 15th instant.

I have the honor to be, sir, with great respect, your obedient servant,

M. ARBUCKLE,
Brev. Brig. General U. S. Army.

Hon. J. R. POINSETT,
Secretary of War, Washington City.

CHEROKEE AGENCY,
Bayou Menard, January 22, 1840.

SIR: I take the earliest opportunity to inform you of the late proceedings of the Cherokee people, as regards their domestic troubles. I think that the present state of affairs is as favorable as could be expected, considering the great excitement that disturbed a part of the nation after the death of the two Ridges' and Boudinot. It appears to me that General Arbuckle and the War Department were under the impression that these murders were authorized by law, or by an order of the chiefs. I have conversed with, and interrogated, five or six of the old settlers who have not joined the Ross party; and it is my belief, from the best information I can obtain, that the murders were not ordered or sanctioned by the chiefs and principal men. And as to the acts of the Cherokee legislature, they have furnished me a copy of their constitution, and of all the laws passed under it; and I do assure you that there is not one word or sentence which tends to the encouragement or sanction of those murders. I will send you their constitution and laws as soon as I can copy them. The papers I send you will show that I have spent much time, and undergone much labor, and expended my own money, to put to rest this vexed question. I care not for the expense nor the trouble, if the question shall be finally settled; and I think it is now settled.

I will copy, for your information, as many documents as I can in the short time I can command at present.

I am, with very great respect, your obedient servant,

M. STOKES,
Agent for Cherokee Nation.

Hon. J. R. POINSETT, *Secretary of War.*

[Papers sent: No. 1, Report of Cherokee Council; No. 2, Act approving the constitution; No. 3, Act repealing the decree of outlawry.]

CHOCTAW AGENCY, *January 29, 1840.*

SIR: I returned a few days since from Fort Gibson. A meeting was called for both parties to attend, consisting of old settlers and new emigrant Cherokees, the object being to ascertain which party had the majority. The old settlers did not attend, as they were doubtless well aware that they were in the minority. There were about seven hundred voters present who were in favor of the new government; they voted in favor of the constitution and laws of the Ross party, and repealed the decree of outlawry against certain other Cherokees: this places all upon an equal footing. I consider the peace of the country the great object to be obtained, and a matter of no importance to the Government who rules, provided the obligations of the United States are not violated.

As the late party have the majority, (perhaps two thirds,) and the old settlers would not attend, I have determined to recognise the late government in such transactions as either their agent or myself may have with them. The Secretary of War having decided in favor of the majority, and the obnoxious decree being repealed—placing all on an equal footing—I have every reason to hope that peace will be restored. I have earnestly pressed the majority to rule with great forbearance: they have promised to avoid every

thing calculated to excite the other party ; and if things keep quiet for a few days, all will be harmony. Should this desirable object be obtained, the wants of the Cherokees are so great, that I would recommend the money due for abandoned improvements to be paid them.

I have the honor to be, your obedient servant,

WM. ARMSTRONG,
Acting Superintendent W. T.

T. HARTLEY CRAWFORD, Esq.,
Commissioner of Indian Affairs.

No. 19.

WAR DEPARTMENT, *March 6, 1840.*

SIR: Finding, from the accounts lately received from Fort Gibson and the Cherokee country west of the Mississippi, that the difficulties originating there from the tyrannical and oppressive conduct of the emigrating party towards the old settlers are not yet adjusted, I think it proper to confide their settlement altogether to the military authority in that section. You will accordingly instruct Mr. Stokes, the agent for the Cherokee Indians, to suspend the exercise of his functions until further orders, and, in the mean time, to take no part in the councils of the Indians, public or private, but to abstain entirely from all interference with the affairs of the Cherokees, whether in matters arising out of the pending difficulties between distinct portions of the nation, or from other causes.

Very respectfully, your most obedient servant,

J. R. POINSETT.

T. HARTLEY CRAWFORD, Esq.,
Commissioner of Indian Affairs.

WAR DEPARTMENT,
Office Indian Affairs, March 7, 1840:

SIR: I enclose herewith the copy of a communication received yesterday from the Secretary of War, and, in obedience to his directions, have now to instruct you to suspend all action whatever, as agent for the Cherokees, from and after the receipt of this letter, until otherwise ordered.

Very respectfully, your obedient servant,

T. HARTLEY CRAWFORD.

M. STOKES, Esq.,
Fort Gibson, west of Arkansas.

WAR DEPARTMENT,
Office Indian Affairs, March 7, 1840.

SIR: Herewith I transmit the copy of a communication received yesterday from the Secretary of War, and of my instructions of this date to Mr. Stokes, in conformity to its requirements. You will please to see that they are obeyed.

Very respectfully, your obedient servant,

T. HARTLEY CRAWFORD.

Captain W. ARMSTRONG,
Choctaw Agency, west of Arkansas.

WAR DEPARTMENT, *March 7, 1840.*

SIR: Your despatch of the 8th of February last has been just received by the hands of Captain Page, and I regret to perceive by its tenor that the troubles which have attended the tyrannical and oppressive acts of the late emigrating party of the Cherokee nation have not yet been terminated.

The Government regrets this, and especially its inability to carry into full effect the principle it is desirous of establishing, as well in the Indian country as elsewhere—that the majority should govern, without violating the rights of the old settlers, which the Government is bound to protect. The case contemplated by the 6th article of the treaty of New Echota appears to have occurred, and the period to have arrived when the active interference of the Government has become necessary “to protect the Cherokee nation from domestic strife,” which would lead inevitably to intestine wars, and probably involve all the neighboring tribes in the contest. You are, therefore, instructed to take all necessary and proper measures to bring about the following results: the adoption of a constitution, that will secure to every individual Cherokee his personal and political rights, and the free enjoyment of life, liberty, and property; annulling, now and forever, all such barbarous laws as those under which Boudinot and the Ridges were put to death, and the penalty of outlawry inflicted upon innocent men. You must be aware that all such laws are inconsistent with the constitution of the United States, to which, by the treaty, they are bound to conform. The Government, not having seen the constitution said to have been agreed to in convention, and not being acquainted with the form of its adoption, is ignorant whether it received the sanction of the old settlers as well as of the late emigrants, and whether its provisions are conformable to the constitution and laws of the United States. You will, therefore, warn the council of the necessity of framing their constitution and laws in such manner and terms as that they will not be inconsistent either with the constitution of the United States, or such acts as have been passed by Congress to regulate the trade and intercourse with the Indians. Let the same council elect chiefs, whose duties shall have been prescribed by the constitution; and as it appears impossible for the Government of the United States to perform the duty assigned to it by the section of the treaty above alluded to, in any other manner, you are instructed to insist that the old settlers shall be represented in the government to be created under the provisions of the constitution to that effect; and that one-third of the chiefs shall be chosen from the Western and two-thirds from the Eastern Cherokees. Strong, and, in the opinion of this department, well-grounded suspicions point to John Ross as the instigator and abettor of the foul murders committed upon the bodies of the two Ridges and Boudinot; and it appearing, from undoubted testimony, that he took no step to arrest the murderers, but used, on the contrary, every effort to shield them from the punishment due to their crimes, the conclusion is irresistible, that he is *particeps criminis*. He must be regarded as conniving at those acts; or, viewing his conduct in the most favorable light, as unable to protect the Indians under his charge, and unwilling to punish the assassins. Under these circumstances, he is excluded from all participation in the government; as is likewise William Shorey Coodey, who, in conversation with me, in my office, persisted in considering the murders committed by the Cherokees upon the persons of Boudinot and the Ridges as justifiable. Men who entertain such opinions are unfit to be intrusted with power, and would soon again involve the nation in do-

mestic strife, from which we are now called upon by our solemn compact with the Cherokees to protect them.

As it is understood by the department that the Cherokee people are likely to be distressed for want of provisions, you are authorized to supply such of them as require and desire it with rations, for the period it may be necessary to feed them, not exceeding five months; it being expressly understood, that the cost of these supplies will be charged to the nation, and deducted, from the payments to be made of the surplus due them *per capita*, from all such as partake of these supplies, to the amount furnished each Indian.

Very respectfully, your obedient servant,

J. R. POINSETT.

Brigadier General M. ARBUCKLE,
Fort Gibson, Western Territory.

P. S.—You will perceive, from the enclosed copy of a letter to the Commissioner of Indian Affairs, that the functions of the agent for the Cherokees have been suspended, and that the whole management of our relations with them is, for the present, committed to the military authority.

No. 20.

HEADQUARTERS, 2D DEPT. W. DIVISION,
Fort Gibson, January 28, 1840.

SIR: I had the honor, on the 22d instant, to address you in relation to the state of affairs in the Cherokee nation. Since then, I was visited by the chiefs of the old settlers, and some of their friends, when I informed them of what had been done at the late assemblage of the Cherokees near Illinois river, and that, agreeably to the decision of the President of the United States, I was of the opinion that their government had ceased. To this they did not make a distinct reply, but remarked that, in relation to a matter of so much importance, they desired to consult the principal men of their government, and requested me to permit them to meet at this post on the 2d or 3d of the next month, for this purpose, and that I would furnish them with provisions for three or four days. I assured them of my willingness to comply with their wishes, as the number they propose inviting to their council will probably not exceed twenty or twenty-five. They are greatly dissatisfied with the late decision of the Government, and assured me that it was their intention to claim of the United States the undisturbed possession of seven millions of acres of land, which they think they are entitled to; and that all the Cherokees who have not voluntarily removed to this country, and have refused to unite with them, shall be removed from the land they claim; otherwise, that they shall be permitted to enjoy a fair participation in the government of the Cherokee nation, and receive an equal share of the sum to be paid for the sale of the Cherokee country east, as provided for by the 15th article of the treaty of 1835.

I would remark, as respects the contest for authority in the Cherokee nation, that, if I were permitted to exercise my own judgment, I would at once dissolve the two governments in that nation; and, as they cannot themselves settle this matter, without great risk of serious misfortune to

their people, I would give to each party a fair representation in the new government, agreeably to their number. This, I believe, would soon give quiet to the people. I will, immediately after the meeting of the old settlers at this post, advise you, by Captain Page, of the 4th infantry, of their proceedings and intentions, so far as they are known to me.

I have the honor to be, sir, with great respect, your obedient servant,

M. ARBUCKLE,

Brevet Brig. Gen. U. S. A.

Hon. J. R. POINSETT,

Secretary of War, Washington City.

No. 21.

HEADQUARTERS, 2D DEPT. W. DIVISION,
Fort Gibson, February 8, 1840.

SIR : I have the honor to transmit, herewith, the proceeding of the old Cherokee settlers, or their principal men, who are now here ; and I much regret to notice, by them, that the troubles in the Cherokee nation have not yet ended, provided the old settlers are to be deprived of a fair participation in the government of their nation ; and as they appear to make this the material point, and for which they will contend, I hope it will receive the consideration it is entitled to by the Government, which will, as I judge, prevent further difficulties in this nation.

I am now satisfied that the old settlers will not peaceably surrender what they regard their rights ; and that, if the Cherokees should be so unfortunate as to resort to further violence against each other, other tribes will have more or less concern with these difficulties. This is forwarded by Captain Page of the 4th infantry, (who has been detailed for the recruiting service ;) and as the steamboat he is going on board of is about to leave this, it is necessary that I should refer you to him for further particulars in relation to the protracted difficulty in the Cherokee nation.

I have the honor to be, sir, with great respect, your obedient servant,

M. ARBUCKLE,

Brev. Brig. Gen. United States army.

Hon. J. R. POINSETT,

Secretary of War, Washington City.

FORT GIBSON, *February 7, 1840.*

We, the select committee, to whom was referred the investigation of the right of John Ross and his partisans to the government of the Cherokee nation west, without the consent of the original settlers, do most respectfully beg leave to report the following as the result of our investigation :

In the treaty of 1817, an agreement was entered into by the Government of the United States with the whole Cherokee people east of the Mississippi. Those who wished to remove were permitted to send out an exploring party to reconnoitre the country on the waters of the Arkansas and White rivers, with the promise that when this party should have found a

country suiting the emigrants, and not claimed by other Indians, the United States would arrange with them, and give in exchange for the country they were to leave a just proportion of lands, according to their numbers.

In 1819 another treaty was entered into between the United States and the Cherokees. In said treaty, the contracting parties agreed that one third of the annuities due the Cherokees under former treaties should be paid to the Cherokees west; which plainly demonstrates that we were considered as a separate community.

In 1828 the Cherokee nation west entered into a treaty with the United States, in which they exchanged the lands that were ceded to them by the treaty of 1819 for a country better adapted to them, with the solemn guaranty to said country from the United States, that it should "be and remain theirs forever, a home that should never in all future time be embarrassed, by having extended around it the lines, or placed over it the jurisdiction of a Territory or State." And in this treaty the bounds of our country were described, and provision made for such of our brethren in the eastern nation as should see proper to come and join us in the west; and all that came we welcomed, and gave them a free participation in our sovereign rights. But never have we yielded any of our rights as a sovereign and independent nation. The treaties that have been made by us with the United States plainly show that we were an independent community from the Eastern Cherokee nation. *This fact has been admitted by themselves, in protesting against some of the provisions of the treaty we made with the United States in 1828.*

In 1833 our nation negotiated another treaty with the United States Government; and our people, being jealous of their rights, and wishing to prevent collision with any of the States or Territories of the United States, or any emigrating community that might hereafter come to the west, bound the United States as follows:

Article 1st. "The United States agree to possess the Cherokees, and to guaranty it to them forever, and that guaranty is hereby pledged, of seven millions of acres of land." The article then goes on to describe the bounds of the said "seven millions of acres" in the same article. "In addition to the seven millions of acres of land thus provided for and bounded, the United States further guaranty to the Cherokee nation a perpetual outlet west, and a free and unmolested use of all the country lying west of the western boundary of said seven millions of acres, as far west as the sovereignty of the United States and their right of soil extend: *Provided, however,* That if the saline or salt plain, on the great western prairie, shall fall within said limits prescribed for said outlet, the right is reserved to the United States to permit other tribes of red men to get salt on said plain in common with the Cherokees, and letters patent shall be issued by the United States as soon as practicable, for the land hereby guarantied."

In 1835 our chiefs convoked our national council at Tattanleesky, to consult upon the proposed treaty to the Eastern Cherokee nation; and, to guard our rights, it was determined to appoint a delegation for that purpose. The instructions to said delegation are as follows:

"The national council, by direction of the chiefs, have selected four delegates, Messrs. Joseph Vann, William S. Coodey, John Smith, and John Drew; and, if possible, to effect such arrangements as will unite the two people into one upon the Arkansas, and upon such principles as will be satisfactory to both the Eastern and Western Cherokees, they are also instruct-

ed to attend to any and every thing which involves the interests of the Western Cherokees. And in the event that our delegation should not be able to effect such arrangements in the Eastern Cherokee nation, and they think it necessary and expedient that they should repair to Washington, they are instructed to do so; that is, if they believe they can effect an object of interest to the nation sufficient to justify their going there. And in the event that the delegation should go on to Washington, you are respectfully requested to inform the Secretary of War, and apprise him of the nature of their visit to that place. You will please, also, to make any necessary arrangement for the convenience of the delegation, which will place or present them to the department upon such terms as will enable them to effect the object in view—that is, to unite the two people into one, on the Arkansas, upon such principles as will be satisfactory to the people east and west. This will be handed by the principal chief.” [Addressed to Captain Vashan, U. S. agent for Cherokees.]

But two of our delegation, viz: James Rogers and John Smith, went to the Cherokee nation east, and in their acts they varied in some measure from their instructions, as will be seen from a note, addressed to James Starr and others, from John Smith, one of the western delegation, accompanying a communication from our chiefs. The note reads as follows:

“Now you see, from this letter, what I told you all when you wished me to sign the treaty. I told you that I would sign it, though it was not agreeable to our instructions. Your and our people can settle it hereafter.”

But notwithstanding our delegation did not adhere strictly to their instructions, they did not cause our sovereign rights to be infringed upon by the treaty of 1835, as may be seen in an article attached to said treaty; it reads as follows:

“Whereas the Western Cherokees have appointed a delegation to visit the Eastern Cherokees, to assure them of the friendly disposition of their people, and their desire that the nation may again be united as one people, and urge upon them the expediency of accepting the overtures of the Government, and that on their removal they may be assured of a hearty welcome and an equal participation with them in all their benefits and privileges of the Cherokee country west; and the undersigned, two of said delegation, being the only delegates in the eastern nation, from the west, at the signing and sealing of the treaty lately concluded at New Echota, between their eastern brethren and the United States, and having fully understood the provisions of the same, they agree to it in behalf of the Western Cherokees. But it is expressly understood that nothing in this treaty shall affect any claims of the Western Cherokees on the United States.”

It is plainly to be seen, from the foregoing quotations and references, that every attribute that constitutes a sovereign and independent community has been acknowledged in us, time after time; and, if we *are* an independent community, there are but two ways that Mr. Ross and his partisans can legally obtain our government—these are, by *conquest*, or by our *consent*. We deny, most positively, ever yielding our government to them in either of these ways.

Be it therefore resolved, That the conduct of Mr. John Ross and his partisans is an unprecedented act of usurpation, unfounded in justice, law, or humanity; and we will not, in all future time, acknowledge the same.

Resolved, That the only legitimate government of this nation is the one handed down to us by the original settlers of the Cherokee nation west, and

we will, to the utmost of our power and ability, uphold and defend the same.

WILLIAM HOLT,
President of the Select Council.
GEORGE W. ADAIR,
THOMAS ROGERS,

Concurred in by the council :

WILLIAM HOLT,
President of the Council.
JOHN CANBY,
Clerk of the Council.

Approved :

JOHN ROGERS,
Principal Chief.
JOHN SMITH,
DUTCH.

THOMAS WILSON,
Secretary to Chiefs.
True copy :

S. G. SIMMONS, A. D. C.,
and A. A. Adj. Gen., 2d Dept. W Division.

WAR DEPARTMENT,
Office Indian Affairs, March 27, 1840.

SIR : The national council of the old settlers and treaty party, convened at Fort Gibson from the 2d to the 8th of February last, appointed Messrs. Dutch, William Rogers, George W. Adair, James Carey, senior, Alexander Foreman, Moses Smith, John Hass, and William Holt, a delegation "with full and ample powers to transact legally all business with the United States for and in behalf of the Cherokee nation west." At the same time the council passed two resolutions: 1st. "That the conduct of Mr. Ross and his partisans is an unprecedented act of usurpation, unfounded in justice, law, or humanity; and we will not in all future time acknowledge the same." 2d. "That the only legitimate government of this nation is the one handed down to us by the original settlers of the Cherokee nation west, and we will, to the utmost of our power and ability, uphold and defend the same."

These resolutions are preceded by a preamble, which seems to me to be founded in erroneous views of the relative positions of the two parties into which the Cherokees have unfortunately split; on which I think it right that the department should express its opinions to the above delegation, so that they may not longer deceive themselves by holding on to a position that, it appears to me, cannot be maintained.

The preamble recites the various treaties made in 1817, 1819, 1828, 1833, and 1835, with the Cherokees, and, after making references to, and quotations from them, concludes that "it is plainly to be seen from" them "that every attribute that constitutes a sovereign and independent community has been acknowledged in us time after time; and if we are an independent community, there are but two ways that Mr. Ross and his partisans can legally obtain our government—these are, by *conquest*, or by our *consent*."

We deny most positively ever yielding our government to them in either of these ways."

If it is meant to assert that the Western Cherokees are an independent and sovereign community, in the full sense of the word, it cannot be admitted for an instant. The United States have, in the modified form prescribed by treaties, control over them, in common with all other Indians, within the boundaries of our country. Such a power is indispensable to the preservation of peace, and the advancement of the Indians in civilization; and has been, and must continue to be, exercised as an attribute of the sovereign power on all proper occasions. It is not probable, however, that they referred to their independence in any other sense than as concerns their relation to the Eastern Cherokees, or late emigrants. Are they right in that, or in the proposition, (not directly put forth, but contained in every line of the preamble and resolutions,) that the 7,000,000 acres of land, secured by the treaty of 1828, belong to them, to the exclusion of those lately removed?

The policy of the United States, enjoined by their obligations to extinguish the Indian title to the land possessed by the Indians east, has been to remove the whole Cherokee people. The first emigrants, or old settlers, were undoubtedly a community who had a right to prescribe a form of government and laws to regulate their own conduct, subject, however, to the enlargement of their number, from time to time, as the emigration from the east progressed. Those removing were to be incorporated, as they arrived, into the original mass; forming, however, I think, one community under every accession.

The treaty of 1817 was made with the whole tribe, which ceded to the United States the proportion of lands east of the Mississippi, to which those Indians then in Arkansas, and then about to remove, were entitled; in consideration whereof, the Government agreed to give them acre for acre on the Arkansas and White rivers, in what is now the State of Arkansas, and that the annuity due the tribe should be divided, in proportion to their numbers, between those east and west. The treaty of 1819 is made with the Cherokee nation, and contains a further cession of land east, at least as extensive as that which they probably are entitled to under the provisions of the treaty of 1817. This instrument provided for the payment of one-third of the annuity to the Indians west, and two-thirds to those east. So far, perhaps, there is some ground for the allegation that the Cherokees west owned the land beyond the Mississippi; but even that it might be difficult to establish, as there was no restriction upon emigration, and the evident object of the Government was to encourage it. The division of the annuity was a mere equitable mode of arriving at a substantially just distribution of it. The treaty of 1828 put an end to all possible question on the subject, if it did not furnish the proper construction of all that had previously been done. The preamble recites that it was "the anxious desire of the Government of the United States to secure to the Cherokee nation of Indians, as well those now living within the limits of the Territory of Arkansas, as those of their friends and brothers who reside in States east of the Mississippi, and who may wish to join their brothers of the west, a permanent home," &c.; that the land then occupied by the Western Cherokees was surrounded by a white population, and, as a consequence, by all the deteriorating influences which had been so destructive to them in times past, and the desire of the Indians to rid themselves of these influences. This treaty, which was made with the Western Cherokees, contains a sur-

render of all the land in Arkansas secured to them by the treaties of 1817 and 1819, and the United States agreed to appropriate to the above use (permanent homes for all the Cherokees east and west) seven millions of acres of land, with an outlet west, as far as the sovereignty of the United States extended. Nothing can be more explicit; and if it was not, it would seem there could be no doubt of the intention, for the seven millions would give every Cherokee west, (reckoning them at 6,000,) man, woman, and child, near 1,200 acres of land; which would be preposterous. I have not noted the various other provisions in these treaties, but only so much as seemed to be necessary to satisfy the delegation they had mistaken their rights in both points stated at the commencement of this communication. The treaty of 1833 does not vary the rights of the Cherokees in the particulars under consideration, but was made to arrange an interference between the Creek and Cherokee lands west; describes, with precision, the boundaries of the latter, and releases whatever under the treaty of 1828 had fallen within the Creek limits. The last treaty, concluded in 1835, recites the description of the land west, as contained in the treaties of 1828 and 1833; and, from an apprehension that the body did not contain "a sufficient quantity of land for the accommodation of the whole nation on their removal west of the Mississippi," the United States agreed to give them 800,000 acres additional, in consideration of \$500,000, and to issue a patent for 7,800,000 acres, with an outlet west, to the "Cherokee nation of Indians." Provision was made for the removal of the late emigrants to the 7,800,000 acres so set apart, and they have been removed and subsisted there. If there had been no prior recognition of the purposes for which this land was appropriated, it might be contended, with some show of plausibility, that the last treaty was made with the Eastern Cherokees, and that they and the United States could not impair the rights of those west; but there was a full acknowledgment of the general right in the treaty of 1828, which does not require the aid of the admissions of James Rogers and John Smith, "delegates from the Western Cherokees," appended to the treaty of 1835, on the 31st December.

It therefore seems to me that the Western Cherokees were only contingently a separate community from the eastern body of these people. They were subject to increase by the emigration of those east, who, according to the construction I put on the various instruments and acts recited, were to fall into the body they joined west, and become a part thereof. They are not, consequently, a separate, independent community; nor have they any ownership of the land, except that which belongs to them in common with the whole Cherokee people.

While on the subject of the rights of the respective contending parties, it may not be improper to express the views of the department as to their pecuniary rights under the treaty of 1835. The consideration in the original treaty was \$5,000,000, of which \$500,000 was applied to the purchase of 800,000 acres of land, by the 2d article; \$600,000 was added by the supplement, and \$1,047,067 was given by the law of 12th June, 1838: making an aggregate of \$6,147,067, exclusive of the above \$500,000. This sum was to be applied to removal and subsistence; to the payment of the Cherokees for their improvements, ferries, reservations, and spoliations upon their property; to the payment of such just debts and claims as the Cherokee nation owed to its own citizens; \$60,000 for the just claims of citizens of the United States for services rendered to the nation; \$200,000, in addition to the present annuities of the nation, to constitute a general fund, the interest of which shall be applied annually, by the council of the

nation, to such purposes as they may deem best for the general interest of their people; \$50,000 to constitute an orphan's fund; \$150,000, in addition to the present school fund of the nation, shall constitute a permanent school fund, the interest of which shall be applied annually, by the council of the nation, for the support of common schools, and such a literary institution of a higher order as may be established in the Indian country; and \$100,000 was appropriated by the 12th article to the relief of the poorer class of Cherokees who have removed, or shall remove west, and are entitled to the benefits of the treaty; but this last sum was, by the 4th article of the supplement, transferred to, and made a part of, the general national fund of \$400,000, thereby increasing it to \$500,000. After these several charges were met out of the aggregate sum in the original treaty, the supplement, and the law of 1838, "the balance, whatever the same may be, shall be equally divided between all the people belonging to the Cherokee nation east, according to the census just completed, and such Cherokees as have removed west since June, 1833, who are entitled, by the terms of their enrolment and removal, to all the benefits resulting from the final treaty between the United States and the Cherokees east. They shall also be paid for their improvements, according to their appraised value, before their removal, where fraud has not already been shown in their valuation." In the distribution of the balance, those only, then, by express provision of the treaty, can participate, who are on the census of 1835, or (as I construe the 15th article, though it is inartificially worded) who emigrated since June, 1833, and who are entitled, by the terms of their enrolment and removal, to all the benefits of the treaty of 1835. So many of the Western Cherokees as come within the last description would be participants; all the others excluded from any share of the balance after the deductions mentioned are made.

In what would all the Western Cherokees have an interest? In the \$500,000 invested: as a general fund, to the amount of \$300,000; for orphans, \$50,000; and as an addition to the school fund, \$150,000; making the above sum of \$500,000. The permanent annuity of \$10,000 was, by the 11th article, commuted for \$214,000, to be invested as a part of the general fund of the nation; and the school fund, before the treaty of 1835, amounted to \$51,138.

1st. The general fund of the nation	-	-	\$514,000	
2d. Orphan fund	-	-	50,000	
3d. Additional school fund	-	-	150,000	
				\$714,000 00
\$714,000 netted in stocks	-	-	-	\$708,761 39
4th. Old school fund	-	-	-	51,138 00
				759,899 39

These several funds belong to the tribe in general, and are under the control of the national council; and in these only, it seems to me, are the entire community, embracing the whole body of the Western as well as Eastern Cherokees, entitled to participate. The balance that shall remain, after the specific uses to which the \$6,147,067 were devoted shall be met, must be distributed according to the limitations in the treaty.

It is to be observed, in conclusion, that the Western Cherokees are to

bear no part of the expenditure under the 18th article, but are to receive their proportion of the two years' annuity mentioned in that article, according to its express stipulation.

I have made this communication in the belief that the delegation from the old settlers and treaty party should know what they may expect, and because, in some of the particulars on which I have remarked, they are in error, and it is advisable they should not be misled as to the views entertained here. If you should concur in this opinion, I respectfully recommend that a copy of this communication be sent to them.

Very respectfully, your obedient servant,

T. HARTLEY CRAWFORD.

Hon. J. R. POINSETT,
Secretary of War.

Concurred in, and to be transmitted to the delegation of the Western Cherokees, as the opinion of the department in reply to their memorial.

J. R. POINSETT.

No. 22.

HEADQUARTERS, 2D DEPT. W. DIVISION,
Fort Gibson, February 10, 1840.

SIR: I had the honor, on the 8th instant, to address you by Captain Page; and was this day informed by the chiefs of the old settlers that they have appointed a delegation of eight to proceed to Washington, (at their own expense,) with the object of making known their situation to the Government, and claiming its action in their favor to sustain them against (what they regard) the unjust acts of John Ross and his partisans.

I had supposed, from some remarks made by the old settlers before their late meeting, that it was their intention to question the right of Mr. Ross and his adherents to settle on the seven millions of acres secured to them by the treaty of 1828; yet, from all I have heard of their present intentions, I have reason to believe that they will not question that right.

The Cherokee people will probably remain quiet until they hear what has been done at Washington in relation to the contest for authority in their nation; and, possibly, it may be in the power of the Government to so settle the dispute between the parties as to prevent further difficulties: yet it is feared that no permanent or secure arrangement of this kind can be made, provided John Ross returns to this country.

I have made no effort, of late, to apprehend the murderers of the Ridges and Boudinot, owing to the impossibility of having them tried by the courts of Arkansas. The witnesses in the case of Major Ridge are Cherokees, or married in the Cherokee nation; and would not, from the popularity of the murderers and of their acts, feel secure in appearing against them. In consequence of these circumstances, and the troops passing through the country in search of the murderers having a tendency to keep up much excitement, I judge it would be best that no further efforts should be made to apprehend them.

I have the honor to be, sir, with great respect, your obedient servant,

M. ARBUCKLE,

Brevet Brigadier General U. S. A.

Hon. J. R. POINSETT,
Secretary of War.